PROCEDURE
in the U.S. House of Representatives

97th Congress

A Summary of the
Modern Precedents and
Practices of the House

86th Congress—97th Congress

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Parliamentarian of the House
1928—1974

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1974—

H940-2

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PERIODIC PREPARATION BY HOUSE PARLIAMENTARIAN OF CONDENSED AND SIMPLIFIED VERSION OF HOUSE PRECEDENTS

SEC. 332. The Parliamentarian of the House of Representatives shall prepare, compile, and maintain on a current basis and in cumulative form, for each Congress commencing with the Ninety-third Congress a condensed and, insofar as practicable, up-to-date version of all of the parliamentary precedents of the House of Representatives which have current use and application in the House, together with informative text prepared by the Parliamentarian and other useful related material in summary form. The Parliamentarian shall have such matter printed for each Congress on pages of such size and in such type and format as he considers advisable to promote the usefulness of such matter to the Members of the House and shall provide a printed copy thereof to each Member in each Congress, including the Resident Commissioner from Puerto Rico, and may make such other distribution of such printed copies as he considers advisable. In carrying out this section, the Parliamentarian may appoint and fix the pay of personnel and utilize the services of personnel of the Library of Congress and the Government Printing Office.

Public Law 510—91st Congress

Preface

The fourth edition of *Procedure in the U.S. House of Representatives* includes the major precedents of the House through the end of the Ninety-sixth Congress. Where changes of the rules have caused major departures in procedures, an effort has been made to note these in this volume, even though they may have occurred after January 3, 1981.

The emphasis in this edition has been to combine similar precedents into commentaries which cover various aspects of House procedure. Repititious or superfluous precedents have been dropped. Most chapters have been reworked, and Chapters 26 (Legislation in Appropriation Bills), 27 (Amendments), and 28 (Germaneness) have been extensively revised to provide a more readable format and a more logical presentation. Chapter 13 (Powers and Prerogatives of the House) includes an expanded section on the congressional budget process and gives proper emphasis to the Budget Act, the procedures utilized, and precedents which have resulted from its application.

As this edition goes to press, work on the next is under way. The objective is to produce a volume that will contain the essentials of current procedure, which can serve as a handbook for understanding and effectively participating in floor and committee proceedings. Such a work must of necessity contain not only the most recent precedents but also, in distilled form, those precedents in current use and application from Hinds' Precedents and Cannon's Precedents.

I continue to be grateful to Charles W. Johnson and Peter Robinson for their efforts in refining and clarifying the precedents included in this volume. Special appreciation is extended to Roy Miller for his editorial assistance and his labors in revising and expanding the index. Both James Robertson of the Government Printing Office and Deborah Woodard Khalili of the Precedents Editing Office rendered invaluable help in preparing the manuscript.

WM. HOLMES BROWN
Parliamentarian
April 7, 1982

Preface to the First Edition

On the theory that a government of laws is preferable to a government of men, the House has repeatedly recognized the importance of following its precedents. As early as 1842, recognition was given in the House to the value of precedents by Chairman George W. Hopkins, of Virginia, in the course of a ruling made in the Committee of the Whole. He said that he felt constrained to follow precedents until they were reversed, especially when settled by a solemn decision of the House. (2 Hinds' Precedents § 1317.)

In looking to precedents to resolve a point of order or other procedural question, the House is applying a doctrine analogous to that known to the courts as "stare decisis," under which a judge in making a decision will look to earlier cases involving the same question of law. In the same way, the House adheres to settled rulings that have been established by prior decision of the Speaker or Chairman. If the will of the majority is to be determined in an orderly and democratic way, questions must be resolved by established procedures, with all Members knowing what to expect in that regard.

Precedents may be viewed as the "common law," so to speak, of the House, with much the same force and binding effect. Of course, the Speaker is not required to follow precedents blindly or mindlessly. There are occasions when it is considered necessary to distinguish between precedents superficially identical; and in rare instances it is necessary to make a rational choice between conflicting precedents.

The rulings of the Speaker or Chairman are the most common examples of the precedents of the House; but the term "precedent" is construed broadly, and may include a conclusion of a committee if adopted by the House.

Deschler's Procedure is a compilation of the parliamentary precedents of the House, in summary form, together with other useful related material, from 1959 through the 93d Congress, first session. Those interested in summaries of the House precedents prior to 1959 should consult *Cannon's Procedure.*[1]

In conformance with the authorizing law (Pub. L. No. 91-510, § 332), the precedents included herein are limited to precedents which have "current use and application." Precedents of historical importance only are excluded, as is any analysis of statutes and reported court cases. Factual or nonprocedural precedents, such as precedents relating to the ceremonies of the House, are likewise excluded.

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[1] C. Cannon, *Cannon's Procedure in the House of Representatives* (Washington: 1959).

The references in this book are to the *Congressional Record* (e.g., 118 CONG. REC. 2915, 92d Cong. 2d Sess., Feb. 7, 1972), to the *House Rules and Manual* (e.g., clause 23 Rule XI), and to the United States Code (e.g., 2 USC § 139).

LEWIS DESCHLER
December 12, 1974

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Chapter 1

Assembly of Congress

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§ 1. In General; Day of Convening

§ 1.1 The Constitution provides that each regular session of Congress shall begin on January 3 unless Congress by law appoints a different day. U.S. Const. amend. XX, § 2.

§ 1.2 The House adopted a joint resolution providing for the convening of the first session of the 95th Congress on January 4 (instead of January 3, 1977). The resolution was considered by unanimous consent. 122 CONG. REC. 35130, 94th Cong. 2d Sess., Oct. 1, 1976 [H.J. Res. 1119]. *Note:* In recent years, joint resolutions setting a convening date have been regarded as not privileged and therefore have been offered from the floor and considered by unanimous consent. Resolutions relating to meetings of Congress, which are within the jurisdiction of the Committee on the Judiciary under Rule X clause 1m, are not privileged even when reported by that committee.

§ 1.3 Upon completion of the legislative business for a session, the House may schedule pro forma meetings for the remainder of the constitutional term so that the leadership may reassemble the House in the event of an international crisis without requiring the President to call a special session. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 14, 1979. The same practice has been followed in the Senate. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 7, 1979.

§ 1.4 As the first session of the 96th Congress drew to a close, the House, by unanimous consent, agreed to convene every third day for the remainder of the session, including a final pro forma meeting immediately prior to the constitutional expiration of the session at noon on January 3, 1980. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 20, 1979. On January 3, the House met pro forma, immediately adjourned the first session *sine die,* and then reconvened at noon on that day for the second session. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 3, 1980.

§ 1.5 A joint resolution, providing for the convening of the second session of the 93d Congress on January 21, 1974, or when reconvened by joint House-Senate leadership prior to that day, was passed under suspension of the rules. 119 CONG. REC. 42059, 42061, 93d Cong. 1st Sess., Dec. 17, 1973 [S.J. Res. 180].

§ 1.6 While the Chair does not construe the constitutionality of a proposed action of the House, the Chair may cite for the information of Members the provision of the Constitution pursuant to which a joint resolution setting a convening day for the next Congress will be considered. 120 CONG. REC. 37407, 37408, 93d Cong. 2d Sess., Nov. 26, 1974.

§ 1.7 By unanimous consent the House considered and adopted a joint resolution (not privileged) establishing the date of convening the second session of the 94th Congress and establishing the dates for the President to submit the budget and the economic report. 121 CONG. REC. 40856, 94th Cong. 1st Sess., Dec. 16, 1975 [H.J. Res. 749]. The House passed a joint resolution, which it had considered by unanimous consent, providing that the second session of the 95th Congress begin at noon on January 19, 1978, and providing that notwithstanding the provisions of existing law, the President transmit the budget for fiscal year 1979 and the economic report to Congress not later than January 23, 1978. 123 CONG. REC. 38948, 95th Cong. 1st Sess., Dec. 15, 1977 [H.J. Res. 674]. See also House Joint Resolution 1173, providing for the convening of the 96th Congress on January 15 (rather than on January 3), 1979, and extending the dates for submission of certain reports. 124 CONG. REC. 38642, 95th Cong. 2d Sess., Oct. 14, 1978.

§ 1.8 By unanimous consent a House joint resolution providing for the beginning of the second session of the 94th Congress, together with a Senate amendment thereto, was taken from the Speaker's table and the House con-

curred in the Senate amendment. 121 CONG. REC. 41975, 94th Cong. 1st Sess., Dec. 19, 1975 [H.J. Res. 749].

§ 2. Hour of Meeting

§ 2.1 The House, by resolution, establishes the daily hour of meeting. 110 CONG. REC. 5, 88th Cong. 2d Sess., Jan. 7, 1964; 112 CONG. REC. 6, 89th Cong. 2d Sess., Jan. 10, 1966; 117 CONG. REC. 15, 92d Cong. 1st Sess., Jan. 21, 1971. *Note:* Resolutions at the beginning of each session establishing a daily hour of meeting are considered privileged even though they are not reported from the Committee on Rules, since they are essential to the operation of the House. See, for example, H. Res. 7, 95th Cong. 1st Sess.

§ 2.2 By standing order the House meets each day at noon. Formerly, unanimous consent was required to adjourn to a different hour. Under the current rule, adjournments to a day and time are permitted pursuant to motion. 109 CONG. REC. 25498, 88th Cong. 1st Sess., Dec. 23, 1963.

§ 2.3 *Note:* The standing order providing for the daily hour of meeting of the House is renewed each session. See 110 CONG. REC. 5, 88th Cong. 2d Sess., Jan. 7, 1964, and 112 CONG. REC. 6, 89th Cong. 2d Sess., Jan. 10, 1966.

§ 2.4 The Speaker (acting in the absence of the majority leader) took the floor to ask unanimous consent that the House meet at an early hour on the following day. 114 CONG. REC. 26488, 90th Cong. 2d Sess., Sept. 11, 1968.

§ 2.5 By unanimous consent, the House agreed to meet on the following day at 7 a.m. rather than at noon. 109 CONG. REC. 25499, 88th Cong. 1st Sess., Dec. 23, 1963.

§ 2.6 The Senate met in extraordinary session at an hour earlier than that to which it had adjourned, adopted a resolution, and then met at the hour to which it had originally adjourned and ratified the earlier ultra vires action. 109 CONG. REC. 22697, 88th Cong. 1st Sess., Nov. 25, 1963 (wherein the Senate, having adjourned from November 22 to noon on November 25, met in extraordinary session at 10 a.m. on Monday, November 25).

§ 2.7 In the 95th Congress a privileged resolution established the daily hour of meeting of the House for the first session (1) on Mondays and Tuesdays at 12 noon; (2) on Wednesdays at 3 p.m. until May 15, at 10 a.m. from May 15-June 30, and at 12 noon for the remainder of the session; and (3) for the balance of the week at 11 a.m. until May 15, at 10 a.m. from May 15-June 30, and at 12 noon for the remainder of the session. 123 CONG. REC. 70, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 7]. *Note:* This resolution was recommended to the leadership by the Commission on Administrative Review in its communication "Scheduling the Work of the House," transmitted to the Speaker on Jan. 4, 1977 [H. Doc. No. 95-23]. In the 96th Congress, the daily hour of meeting of the House for the first session was as follows: (1) on Mondays and Tuesdays at 12 noon; (2) on Wednesdays at 3 p.m. until May 15, at 10 a.m. thereafter; and (3) for the balance of the week at 11 a.m. until May 15, and at 10 a.m. thereafter for the remainder of the session. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 15, 1979 [H. Res. 9]. *Note:* Such schedules are designed to establish a meeting plan which provides sufficient committee time for hearings and marking up bills early in the session, and sufficient floor time near budget deadlines for authorization and appropriation bills. The meeting hour may be subsequently changed to a different hour on certain days of the week (see § 2.8, infra). And the House may by unanimous consent vacate a previous order providing for the House to meet only at certain times for the remainder of the session unless otherwise ordered by the House, and

agree to meet at a different time. 123 CONG. REC. 38003, 95th Cong. 1st Sess., Nov. 29, 1977.

§ 2.8 The House considered by unanimous consent and adopted a resolution providing that, until otherwise ordered by the House, from July 1, 1977, until the end of the session, the hour of meeting of the House be 12 o'clock noon on Mondays, Tuesdays, and Wednesdays, and be 10 o'clock a.m. on all other days of the week. 123 CONG. REC. 21685, 95th Cong. 1st Sess., June 30, 1977 [H. Res. 671]. *Note:* On Jan. 4, 1977, the House had adopted H. Res. 7 establishing, *inter alia,* the hour of meeting as 12 noon every day after June 30 until otherwise ordered by the House. Such a resolution on opening day is called up as privileged, the Rules Committee not being organized. But subsequent resolutions changing the hour of meeting, unless reported as privileged from the Committee on Rules, require unanimous consent for consideration. See also 124 CONG. REC. 19507, 95th Cong. 2d Sess., June 29, 1978, where the House by unanimous consent changed the meeting time (previously established by H. Res. 949) for Wednesdays from noon to 10 a.m. for the remainder of the session.

§ 3. Election of Speaker

§ 3.1 Candidates for the Speakership are nominated by the Chairmen of the Democratic Caucus and the Republican Conference. 108 CONG. REC. 5, 87th Cong. 2d Sess., Jan. 10, 1962.

§ 3.2 Following nominations for Speaker, the Clerk appointed tellers for the vote on the election of a new Speaker. 108 CONG. REC. 5, 87th Cong. 2d Sess., Jan. 10, 1962.

§ 3.3 *Note:* Election of a new Speaker being the first order of business, Members-elect present, not having been sworn, were not called to establish the quorum or to elect the Speaker. See 108 CONG. REC. 5, 87th Cong. 2d Sess., Jan. 10, 1962.

§ 3.4 *Note:* Election of a new Speaker being the first order of business, resignations of Members [received during the *sine die* adjournment] are not laid down prior to the vote; their names are stricken from the roll and are not called to establish a quorum nor to elect the Speaker. See 108 CONG. REC. 5, 87th Cong. 2d Sess., Jan. 10, 1962.

§ 3.5 *Note:* Members who resigned to their state governments between sessions of the 87th Congress did not vote in the election for the Speaker at the beginning of the second session. Although the House had no official knowledge of their resignations at the time, their names were deleted from the call of the House to establish a quorum and on the roll call vote for the Speaker. See 108 CONG. REC. 7, 87th Cong. 2d Sess., Jan. 10, 1962.

§ 3.6 The Speaker, following his election, addresses the House, and may request the Dean of the House to administer the oath to him. 119 CONG. REC. 14, 15, 93d Cong. 1st Sess., Jan. 3, 1973; 121 CONG. REC. 15-19, 94th Cong. 1st Sess., Jan. 14, 1975

§ 4. Organizational Business — First Session

§ 4.1 At the beginning of a new Congress the Clerk calls the House to order and, following the opening prayer, (1) announces the receipt of credentials of Members-elect; (2) causes the roll to be called by states to establish a quorum; (3) announces the filing of credentials of Delegates-elect and of the Resident Commissioner from Puerto Rico; (4) announces existing vacancies resulting from death or other cause; (5) recognizes for nominations for Speaker; (6) appoints tellers for the alphabetical roll call vote for Speaker; (7) announces the vote; and (8) appoints a committee (minor-

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ity leader, majority leader, minority whip, Chairman of the Democratic Caucus and the Member who nominated the Speaker-elect in the caucus) to escort the Speaker to the chair. See, for example, 117 CONG. REC. 9-13, 92d Cong. 1st Sess., Jan. 21, 1971; 119 CONG. REC. 11-13, 93d Cong. 1st Sess., Jan. 3, 1973.

§ 4.2 *Note:* All Members-elect whose credentials have been received by the Clerk are included on the first roll call, on opening day, to establish a quorum. Members-elect not responding on that call and not appearing to take the oath when it is administered en masse on opening day are not included on further roll calls until they have taken the oath.

§ 4.3 At the beginning of a new Congress, the House by various resolutions: (1) directs that a message be sent to the Senate to inform that body that a quorum of the House has been established and that the Speaker and Clerk have been elected; (2) establishes a select committee to notify the President that a quorum of the House has assembled and is ready to receive any communication he may wish to make; and (3) directs the Clerk to inform the President of the selection of Speaker and Clerk. 115 CONG. REC. 35, 91st Cong. 1st Sess., Jan. 3, 1969; 121 CONG. REC. 15-19, 94th Cong. 1st Sess., Jan. 14, 1975.

§ 4.4 At the beginning of the 95th Congress, after election of the Speaker, the Clerk appointed a committee consisting of the Majority Leader, Minority Leader, Minority Whip, Chairman of the Democratic Caucus, the Member-elect who nominated the Speaker-elect in the Caucus, and another minority Member-elect from the Speaker-elect's state, and by unanimous consent two former Speakers of the House, to escort the Speaker-elect to the Chair. 123 CONG. REC. 50, 95th Cong. 1st Sess., Jan. 4, 1977.

§ 5. Organizational Business — Second Session

§ 5.1 At the beginning of the second session of a Congress, the House is ordinarily called to order by the Speaker; however, the Clerk called the House to order at the beginning of the second session of the 87th Congress, and announced that the Speaker had died during the *sine die* adjournment. 108 CONG. REC. 5, 87th Cong. 2d Sess., Jan. 10, 1962.

§ 5.2 The Speaker being absent on the day set for the convening of the second session, 89th Congress, the House was called to order by a Speaker pro tempore previously designated by the Speaker. 112 CONG. REC. 5, 89th Cong. 2d Sess., Jan. 10, 1966.

§ 5.3 At the beginning of a second session the Speaker calls the House to order and, following the opening prayer, (1) lays before the House letters notifying the Speaker of resignations which became effective during the adjournment and then (2) causes the roll to be called alphabetically to establish a quorum. 112 CONG. REC. 5, 89th Cong. Jan. 10, 1966. At the convening of the second session the Speaker calls the House to order and, following the opening prayer, (1) lays before the House resignations which became effective during the adjournment *sine die* and then (2) orders a call of the House, which may be taken by electronic device, to establish a quorum. 124 CONG. REC. 107, 95th Cong. 2d Sess., Jan. 19, 1978. *Note:* In 1976, the Speaker elected not to use the electronic voting system. 122 CONG. REC. 140, 94th Cong. 2d Sess., Jan. 19, 1976.

§ 5.4 Ascertaining the presence of a quorum is sometimes the first order of business when the House convenes at the beginning of a second session. 110 CONG. REC. 4, 88th Cong. 2d Sess., Jan. 7, 1964.

§ 5.5 *Note:* Members-elect, elected to fill vacancies occurring in the first session, are not included on the roll call to ascertain the presence of a quorum when the second session convenes; their names are included on the roll only after their certificates of election have been laid before the House and the oath administered to them.

§ 5.6 Organizational business at the convening of a second session, after a roll call to establish the presence of a quorum, may include the following: (1) the Speaker administers the oath of office to new Members-elect; (2) a resolution authorizing the appointment of a committee to notify the President that a quorum has assembled; (3) the appointment of the committee to notify the President; (4) a resolution directing the Clerk to notify the Senate that a quorum of the House has assembled; (5) a resolution establishing the daily hour of meeting; (6) a communication from the Clerk notifying the Speaker of the receipt of messages from the Senate during *sine die* adjournment; (7) the report of the committee to notify the President; (8) a concurrent resolution establishing the time for a joint session to receive the President's state of the Union address; (9) a unanimous-consent request permitting the Speaker to declare a recess on the date set for the joint session; (10) a unanimous-consent request dispensing with Calendar Wednesday business during that week; and (11) the Speaker's announcement regarding the privileges of the floor during the joint session. 118 CONG. REC. 5, 8, 92d Cong. 2d Sess., Jan. 18, 1972; see also 114 CONG. REC. 7-10, 90th Cong. 2d Sess., Jan. 15, 1968; 116 CONG. REC. 148, 154, 91st Cong. 2d Sess., Jan. 19, 1970.

§ 5.7 Organizational business at the commencement of the second session of the 93d Congress included the following: (1) the Speaker directed the Clerk to call the roll to establish the presence of a quorum (the electronic voting system was not utilized); (2) the Speaker announced the proper procedure for Members to record and verify votes by electronic device; (3) the House agreed to a privileged resolution authorizing the appointment of a committee to notify the President that a quorum had assembled; (4) the House agreed to a privileged resolution directing the Clerk to notify the Senate that a quorum of the House had assembled; (5) the House adopted a resolution establishing the daily hour of meeting; (6) acceptance of a communication from the Clerk notifying the Speaker of receipt of a subpena duces tecum in a federal criminal action during the *sine die* adjournment; (7) announcement by the Speaker of appointment of a funeral committee for a deceased Member during the *sine die* adjournment; (8) the House received a report of the committee appointed to notify the President and (9) the House agreed to a privileged concurrent resolution establishing the time for the joint session to receive the President's state of the Union message. 120 CONG. REC. 103-105, 93d Cong. 2d Sess., Jan. 21, 1974.

§ 5.8 On the convening day of the 93d Congress, second session, the House conducted organizational and scheduled legislative business before adjourning out of respect to a Member who had died during the *sine die* adjournment. See 120 CONG. REC. 153, 93d Cong. 2d Sess., Jan. 21, 1974, H. Res. 773, providing for adjournment out of respect to Representative Teague (Calif.).

§ 5.9 For an unusual situation where the House convened for its second session on January 3, but conducted no legislative business (including approval of its Journal or referral of bills) until January 22, see 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan 3, 1980. Organization business was conducted on January 22, 1980. 126 CONG. REC. p. ....., 96th Cong. 2d Sess.

§ 6. Legislative Business — Opening Day

§ 6.1 Due to the tremendous number of bills introduced on opening day, it is sometimes impossible to refer all of them on that day, and the Speaker may hold some of them over until the next day. 105 CONG. REC. 16, 86th Cong. 1st Sess., Jan. 7, 1959.

§ 6.2 The Speaker may be faced with the problem, on opening day, of referring several thousand bills or resolutions, in which event he may seek the indulgence of the Members in arranging for their referral and printing in the *Congressional Record*. 113 CONG. REC. 34, 90th Cong. 1st Sess., Jan. 10, 1967. *Note:* A total of 2,247 bills and resolutions were introduced on opening day—1,502 public bills, 472 private bills, 117 joint resolutions, 49 concurrent resolutions, and 107 resolutions.

§ 6.3 Although the Senate rules do not prohibit business on the opening day of a new session, it is the custom of that body to defer all business until after the President has delivered his state of the Union address. 114 CONG. REC. 3-5, 90th Cong. 2d Sess., Jan. 15, 1968.

§ 6.4 The Vice President stated, in response to parliamentary inquiries, that nothing in the rules of the Senate prohibited a Senator from making a speech or the Senate from receiving a petition on opening day. 114 CONG. REC. 3-5, 90th Cong. 2d Sess., Jan. 15, 1968. *Note:* The Senator's inquiries were occasioned by the presence in Washington of the Jeanette Rankin Brigade, a group of several thousand women who had assembled at Union Station, walked to the Capitol's west facade, and sent a delegation to present the Speaker and the Senate majority leader with petitions urging an end to the Vietnam war. The Senator was attempting to present the petition to the Senate and initiate debate upon it on opening day. The majority leader, however, chose to follow the established practice of deferring business until after the state of the Union address.

§ 6.5 The Speaker announced that bills placed in the hopper on opening day would be referred as expeditiously as possible and that all bills and resolutions must bear the original signature of the chief sponsor. 121 CONG. REC. 34, 94th Cong. 1st Sess., Jan. 14, 1975.

§ 7. Procedure Prior to Adoption of Rules

§ 7.1 Prior to the adoption of the rules, the House operates under general parliamentary law, and the statutory enactments incorporated into the rules of the prior Congress as an exercise of its rule-making power do not control the proceedings of the new House until it adopts rules incorporating those provisions. 117 CONG. REC. 132, 92d Cong. 1st Sess., Jan. 22, 1971.

§ 7.2 The previous question, a fundamental rule of general parliamentary procedure, is applicable in the House prior to the adoption of the rules. 113 CONG. REC. 14, 90th Cong. 1st Sess., Jan. 10, 1967 [H. Res. 1, relating to the right of a Member to take the oath of office].

§ 7.3 Before the adoption of the rules, the motion for the previous question is in order and takes precedence over the motion to amend. 115 CONG. REC. 25-27, 91st Cong. 1st Sess., Jan. 3, 1969.

§ 7.4 If the motion for the previous question is rejected, a resolution being considered in the House prior to the adoption of the rules is open to any germane amendment. 113 CONG. REC. 14, 90th Cong. 1st Sess., Jan. 10, 1967 [H. Res. 1].

§ 7.5 Before the adoption of the rules, if the motion for the previous question is voted down, it is in order to offer an amendment to

the resolution before the House. 107 CONG. REC. 23-25, 87th Cong. 1st Sess., Jan. 3, 1961.

§ 7.6 Prior to the adoption of the rules, when the House is operating under general parliamentary law, an amendment is subject to a point of order that it must be germane to the proposition to which offered. 115 CONG. REC. 23-25, 91st Cong. 1st Sess., Jan. 3, 1969 [during consideration of H. Res. 1].

§ 7.7 Recognition to offer an amendment to a resolution called up prior to the adoption of the rules passes to a Member opposed to the resolution if the previous question is rejected. 113 CONG. REC. 14, 90th Cong. 1st Sess., Jan. 10, 1967 [H. Res. 1].

§ 7.8 Prior to the adoption of the rules, a Member offering a resolution in the House is recognized for one hour of debate. 117 CONG. REC. 132, 92d Cong. 1st Sess., Jan. 22, 1971 [H. Res. 5].

§ 7.9 Before the adoption of the rules, if the previous question is voted down on a resolution and an amendment is offered, the proponent of the amendment is recognized under the hour rule. 115 CONG. REC. 27-29, 91st Cong. 1st Sess., Jan. 3, 1969.

§ 7.10 Prior to the adoption of rules, when the motion for the previous question is moved without debate, the 40 minutes' debate prescribed by House rules during the previous Congress does not apply. 105 CONG. REC. 14, 86th Cong. 1st Sess., Jan. 7, 1959; 107 CONG. REC. 23-25, 87th Cong. 1st Sess., Jan. 3, 1961.

§ 7.11 A motion to postpone to a day certain is in order prior to adoption of the rules. 117 CONG. REC. 14, 92d Cong. 1st Sess., Jan. 21, 1971 [H. Res. 5].

§ 7.12 Prior to the adoption of the rules, a resolution may be withdrawn at any time before action is taken thereon, and unanimous consent is not required. 117 CONG. REC. 13, 92d Cong. 1st Sess., Jan. 21, 1971. *Note:* During consideration of proposed rules changes, the Democratic Caucus had adopted several recommendations in the form of a resolution pertaining to seniority and other issues. The resolution as initially presented included recommendations which were not consistent therewith.

§ 7.13 During debate on a resolution adopting the rules of the House but prior to the adoption of the rules, any Member may make a point of order of no quorum based upon general parliamentary precedent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979. *Note:* Rule XV clause 6(e) prohibiting points of no quorum except where the Chair has put the question (Ch. 20 § 12) is not applicable prior to the adoption of the rules of the House. Points of no quorum generally, see Ch. 20 § 10, infra.

§ 8. Adoption of Rules

§ 8.1 The constitutional power [U.S. Const. art. I, § 5] of each House to make its own rules cannot be restricted by the rules or statutory enactments of a preceding House. 117 CONG. REC. 132, 92d Cong. 1st Sess., Jan. 22, 1971 [H. Res. 5, adopting the rules of the House for the 92d Congress].

§ 8.2 Where the previous Congress had by statute adopted rules requiring, *inter alia,* House committee reports to be printed and available for three calendar days, the Speaker overruled a point of order against the consideration of a resolution (proposing the rules for the new House) for failure to comply with that law, since the House had the authority under the Constitution to determine the rules of its own proceedings and, pending such determination, was governed by general parliamentary law. 117 CONG. REC. 132, 92d Cong. 1st Sess., Jan. 22, 1971 [H. Res. 5].

§ 8.3 The Senate, by majority vote, may change its rules at the beginning of a new

Congress. 107 CONG. REC. 10, 14, 87th Cong. 1st Sess., Jan. 3, 1961.

§ 8.4 Senate rules, if expressly adopted or tacitly agreed to by proceeding thereunder, carry over from one Congress to the next, but a rule inhibiting the constitutional right of a majority in a new Congress to adopt or change its rules would not apply. 107 CONG. REC. 10, 14, 87th Cong. 1st Sess., Jan. 3, 1961.

§ 9. — Resolutions Adopting Rules

§ 9.1 The rules of the House for each Congress are adopted by resolution. See, for example, 111 CONG. REC. 21-25, 89th Cong. 1st Sess., Jan. 4, 1965; 113 CONG. REC. 430, 90th Cong. 1st Sess., Jan. 12, 1967.

§ 9.2 The majority leader has been recognized to offer the resolution for adoption of rules. 109 CONG. REC. 14, 20-22, 88th Cong. 1st Sess., Jan. 9, 1963.

§ 9.3 A resolution adopting the rules of the House from a previous Congress may include various amendments. 111 CONG. REC. 21-25, 89th Cong. 1st Sess., Jan. 4, 1965. At the inception of the 95th Congress, the House by resolution adopted the rules of the House in existence at the close of the 94th Congress, including all applicable provisions of law, with amendments making both substantive and technical changes in those rules. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the Rules of the House for the 95th Congress]. *Note:* In the early organizational Democratic Caucus in December 1976, a resolution was adopted permitting the Majority Leader to make technical and conforming changes in the rules—changes recommended by the Caucus for presentation in a resolution to the House. These changes were made so that the rules as drafted would conform to the intention of the Caucus.

§ 9.4 The motion for the previous question on a resolution adopting the rules of the House having been voted down, the Speaker recognized the minority leader who, in turn, yielded [to the ranking minority member on the Committee on Rules in the 89th Congress] for an amendment. 113 CONG. REC. 28, 31-33, 90th Cong. 1st Sess., Jan. 10, 1967 [H. Res. 7, adopting rules for the 90th Congress].

§ 9.5 The Speaker has taken the floor to debate the resolution adopting rules. 109 CONG. REC. 14, 20-22, 88th Cong. 1st Sess., Jan. 9, 1963. See also 111 CONG. REC. 21-25, 89th Cong. 1st Sess., Jan. 4, 1965, where the Speaker took floor to urge adoption of rules for the 89th Congress with certain amendments which had the endorsement of the Democratic Caucus.

§ 9.6 By unanimous consent, the Clerk of the House may be directed, in the engrossment of the House resolution providing for the adoption of rules, to make certain corrections in the text of the resolution and the amendment thereto so as to reflect the intention of the House. 113 CONG. REC. 430, 90th Cong. 1st Sess., Jan. 12, 1967. [*Note:* The original resolution should have read "89th Congress," and the amendment offered should have been prefaced by a clause integrating the amendment into the resolution.]

Chapter 2

Members' Oath of Office

§ 1. In General; Administering the Oath
§ 2. Administering the Oath to Absent Members
§ 3. Administration of Oath by Deputy
§ 4. Challenging the Right To Be Sworn

§ 1. In General; Administering the Oath

§ 1.1 The Speaker administers the oath of office to all Members-elect at one time where the right of any Member-elect to take the oath is not challenged. 113 CONG. REC. 14, 90th Cong. 1st Sess., Jan. 10, 1967; 115 CONG. REC. 15, 91st Cong. 1st Sess., Jan 3, 1969; 117 CONG. REC. 13, 92d Cong. 1st Sess., Jan 21, 1971.

§ 1.2 The Speaker administers the oath of office to all Members-elect, Delegates-elect and the Resident Commissioner from Puerto Rico at one time where the right of any Member-elect to take the oath is not challenged. 119 CONG. REC. 15, 93d Cong. 1st Sess., Jan. 3, 1973; 121 CONG. REC. 19, 94th Cong. 1st Sess., Jan. 14, 1975.

§ 1.3 A Member-elect who has not taken the oath of office on opening day [when the Speaker administers the oath en masse to all Members-elect present] may appear in the well, in response to the Speaker's invitation, and take the oath. 117 CONG. REC. 229, 92d Cong. 1st Sess., Jan 25, 1971; 117 CONG. REC. 1257, 92d Cong. 1st Sess., Feb. 1, 1971.

§ 1.4 The Speaker administers the oath of office to a Member-elect elected to fill a vacancy. 118 CONG. REC. 11865, 92d Cong. 2d Sess., Apr. 10, 1972; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979.

§ 1.5 The administration of the oath of office to a Member-elect is a matter of high privilege and is in order after the previous question is ordered on the pending question. 115 CONG. REC. 28487, 91st Cong. 1st Sess., Oct. 3, 1969. *Note:* The Member-elect was elected in a special election to fill a vacancy in the sixth district of Massachusetts. The Speaker had arranged for the new Member to take the oath at this stage of the proceedings so that he might vote on H.R. 14000, a military procurement authorization. The Member-elect was permitted to take the oath of office pending proceedings in the House on a bill reported from the Committee of the Whole.

§ 1.6 Debate on a resolution reported from the Committee on Rules was interrupted to allow a new Member to take the oath of office. 109 CONG. REC. 25526, 88th Cong. 1st Sess., Dec. 24, 1963.

§ 1.7 By unanimous consent, the House may permit a Member-elect to be sworn although his certificate of election has not arrived. 106 CONG. REC. 5294, 86th Cong. 2d Sess., Mar. 11, 1960; 108 CONG. REC. 1116, 87th Cong. 2d Sess., Jan. 29, 1962; 117 CONG. REC. 12481, 92d Cong. 1st Sess., Apr. 29, 1971. See also 2 USC § 25, providing for an oath in printed form to be signed and filed with the Clerk.

§ 1.8 The House may by unanimous consent permit the administration of the oath to Members-elect whose certificates of election have not arrived, where unofficial election results have been received from state election officials, and where no contests have been initiated and no questions raised or communicated to the House as to the returns. 124 CONG. REC. 3853, 95th Cong. 2d Sess., Feb. 21, 1978. *Note:* Unofficial state communications certifying the results in advance of a certificate of election are laid before the House before unanimous-consent requests for the administration of the oath. In this instance, the Majority Leader (a member of the Democratic Party) requested unanimous consent that the oath be administered to the Member-elect, who had been elected as a Republican (Liberal) but who had announced his intention to join the Democratic Party.

§ 1.9 By unanimous consent, at the request of the minority whip, a Member-elect was permitted to take the oath of office although his certificate of election had not arrived. 118 CONG. REC. 12172, 92d Cong. 2d Sess., Apr. 11, 1972. *Note:* The minority whip rather than the minority leader made the unanimous-con-

sent request, since he was from the same state as the Member-elect.

§ 1.10 *Note:* The Acting President pro tempore of the Senate (who had been appointed by the Governor of New Hampshire to the Senate to serve in the Senate until the resolution of a contested election) administered the oath to the Senator-elect from that state. 121 CONG. REC. 29256, 94th Cong. 1st Sess., Sept. 18, 1975.

§ 2. Administering the Oath to Absent Members

§ 2.1 The Speaker, or a deputy named by him, may be authorized by resolution to administer the oath of office to Members-elect absent because of illness. 105 CONG. REC. 15, 86th Cong. 1st Sess., Jan. 7, 1959; 111 CONG. REC. 25, 89th Cong. 1st Sess., Jan. 4, 1965; 117 CONG. REC. 15, 92d Cong. 1st Sess., Jan. 21, 1971; 117 CONG. REC. 144, 92d Cong. 1st Sess., Jan. 22, 1971.

§ 2.2 The House may by resolution authorize the Speaker, or a deputy named by him, to administer the oath of office to a Member-elect, absent because of illness, and provide that said oath be accepted by the House as the oath of that Member-elect. 119 CONG. REC. 28, 93d Cong. 1st Sess., Jan. 3, 1973; 121 CONG. REC. 33, 94th Cong. 1st Sess., Jan. 14, 1975.

§ 2.3 The Speaker informs the House when he has, pursuant to authority granted him, administered the oath of office to Members-elect absent because of illness. 107 CONG. REC. 287, 87th Cong. 1st Sess., Jan. 6, 1961.

§ 3. Administration of Oath by Deputy

§ 3.1 The Speaker may designate a Member to administer the oath to an absent Member-elect. 107 CONG. REC. 26, 87th Cong. 1st Sess., Jan. 3, 1961; 111 CONG. REC. 25, 89th Cong. 1st Sess., Jan. 4, 1965. *Note:* Bills may not be introduced by a Member-elect until he takes the oath. Hence, bills placed in the hopper on his behalf will not be accepted for reference.

§ 3.2 The Speaker has designated a Member and a Justice of the Supreme Court of New York to administer the oath to absent Members-elect. 105 CONG. REC. 15, 86th Cong. 1st Sess., Jan. 7, 1959.

§ 3.3 The Speaker may designate a state judge to administer the oath of office to an absent Member-elect. 119 CONG. REC. 28, 93d Cong. 1st Sess., Jan. 3, 1973.

§ 3.4 The Speaker may designate a county judge to administer the oath to an absent Member-elect. 117 CONG. REC. 144, 92d Cong. 1st Sess., Jan. 22, 1971.

§ 3.5 A deputy designated by the Speaker to administer the oath of office to a Member-elect absent because of illness reports thereon to the House. 105 CONG. REC. 362, 86th Cong. 1st Sess., Jan. 9, 1959; 121 CONG. REC. 177, 94th Cong. 1st Sess., Jan. 15, 1975.

§ 3.6 A Member designated by the Speaker to administer the oath to an absent Member-elect reports thereon to the House. 111 CONG. REC. 407, 89th Cong. 1st Sess., Jan. 7, 1965; 117 CONG. REC. 145, 92d Cong. 1st Sess., Jan. 22, 1971; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 24, 1979.

§ 3.7 The Speaker lays before the House a letter from a deputy designated by the Speaker to administer the oath of office to a Member-elect absent because of illness. 105 CONG. REC. 559, 86th Cong. 1st Sess., Jan. 12, 1959.

§ 3.8 The oath of office administered by a deputy of the Speaker to a Member-elect is accepted by resolution. 105 CONG. REC. 559, 86th Cong. 1st Sess., Jan. 9, 1959; 117 CONG. REC. 1262, 92d Cong. 1st Sess. Feb. 1, 1971.

§ 3.9 An oath administered by a Member to an absent Member-elect is accepted by resolution. 107 CONG. REC. 427, 87th Cong. 1st Sess., Jan. 9, 1961; 117 CONG. REC. 145, 92d Cong. 1st Sess., Jan. 22, 1971.

§ 4. Challenging the Right To Be Sworn

§ 4.1 The right of a Member-elect to take the oath of office may be challenged by another Member-elect; when this occurs, the Speaker directs the challenged Member-elect not to rise and take the oath with the other Members. 105 CONG. REC. 14, 86th Cong. 1st Sess., Jan. 7, 1959; 111 CONG. REC. 18, 89th Cong. 1st Sess., Jan. 4, 1965; 113 CONG. REC. 14, 90th Cong. 1st Sess., Jan. 10, 1967. See also 115 CONG. REC. 15, 91st Cong. 1st Sess., Jan. 3, 1969, wherein the right of Adam Clayton Powell, a Member-elect from New York [who had been excluded from membership in the 90th Congress] to take the oath in the 91st Congress was challenged.

§ 4.2 A Member, who had been asked to stand aside when the oath was administered to the other Members, may be permitted by resolution to take the oath of office. 107 CONG. REC. 23-25, 87th Cong. 1st Sess., Jan. 3, 1961.

§ 4.3 Where the House agrees to a resolution authorizing the Speaker to administer the oath to a challenged Member-elect, he may be permitted to take the oath immediately thereafter. 111 CONG. REC. 20, 89th Cong. 1st Sess., Jan. 4, 1965.

§ 4.4 The House may by resolution authorize the Speaker to administer the oath of office to a challenged Member-elect and provide that the question of the final right of the Member-elect to his seat be referred to the Committee on House Administration. 105 CONG. REC. 14, 86th Cong. 1st Sess., Jan. 7, 1959; 113 Cong. Rec. 14, 90th Cong. 1st Sess., Jan. 10, 1967 [H. Res. 1, relating to the right of Adam C. Powell to take the oath of office as a Representative from New York, and referring the question of his final right to a seat to a select committee].

§ 4.5 The right of the entire delegation from a state (Mississippi) to take the oath has been challenged. However, the House by resolution authorized the Speaker to administer the oath to five challenged Members, and they were sworn in en bloc immediately after the resolution providing for their taking the oath had been agreed to. 111 CONG. REC. 19, 89th Cong. 1st Sess., Jan. 4, 1965. *Note:* The challenge was based on the constitutional argument that the systematic denial of Negro voting rights throughout Mississippi invalidated the election of the entire delegation from that state.

§ 4.6 By resolution the House may provide that the question of the right of either of two contestants to a seat be referred to the Committee on House Administration, and that until that committee has reported, neither the Member-elect nor the contestee should take the oath of office. 107 CONG. REC. 23-25, 87th Cong. 1st Sess., Jan. 3, 1961.

§ 4.7 A resolution relating to the right of a Member-elect to his seat is privileged. 113 CONG. REC. 4997, 90th Cong., 1st Sess., Mar. 1, 1967.

§ 4.8 The privileged resolution reported by the special committee to investigate the right of Representative-elect Adam C. Powell to be sworn provided that: (1) the Speaker administer him the oath of office; (2) upon taking the oath of office, he be brought to the bar of the House for censure by the Speaker in the name of the House; (3) he pay, as punishment, $40,000 (to be deducted from his salary in monthly increments of $1,000); (4) his seniority in the House rank from the date of being sworn in for the 90th Congress; (5) and that if he should not appear to take the oath by a certain date, the seat would be declared vacant

and the Speaker would notify the Governor of New York of this fact. 113 CONG. REC. 4997, 90th Cong. 1st Sess., Mar. 1, 1967 [H. Res. 278].

§ 4.9 A resolution authorizing the Speaker to administer the oath of office to a challenged Member-elect was opened to amendment when the House refused to order the previous question thereon. 115 CONG. REC. 15, 22-25, 91st Cong. 1st Sess., Jan. 3, 1969 [H. Res. 1, authorizing the Speaker to administer the oath to Member-elect Adam C. Powell; an amendment providing that the Speaker administer the oath but adding several conditions of punishment (including a fine and loss of seniority) predicated on acts committed in a prior Congress was ruled out as not germane].

§ 4.10 A Member-elect, asked to stand aside when the oath was administered to other Members, was, by unanimous consent, permitted to participate in debate on a resolution relating to his right to be sworn. 113 CONG. REC. 15, 23, 90th Cong. 1st Sess., Jan. 10, 1967.

§ 4.11 Debate on a resolution relating to the right of a Member-elect to be sworn may, by unanimous consent, be extended to two hours. 113 CONG. REC. 4997, 90th Cong. 1st Sess., Mar. 1, 1967.

§ 4.12 An appointment by the Governor of Ohio to fill a vacancy caused by the resignation of a Senator from that state having been laid before the Senate, a Senator moved that the oath be administered to the appointee without prejudice, and that the certificate be referred to the Committee on Rules and Administration with instructions to report back to the Senate by a date certain on allegations of questionable bona fide transactions by the appointee with the Internal Revenue Service. This motion was laid on the table, and the Vice President then administered the oath of office to the appointee. 120 CONG. REC. 4, 5, 8, 93d Cong. 2d Sess., Jan. 21, 1974.

Chapter 3

Party Organization

§ 1. In General; Democratic Caucus and Republican Conference

§ 2. Floor Leaders; Whips

§ 3. Party Role in Assigning Members to Committees

§ 1. In General; Democratic Caucus and Republican Conference

§ 1.1 *Note:* The primary party organizations in the House are the Democratic Caucus and the Republican Conference. Generally, the Democratic Caucus is composed of all Democratic Members of the House, and the Republican Conference is composed of all Republican Members. The main functions of the two party organizations are: to promote unity; to determine party policy with respect to anticipated legislation; to select their respective candidates for the speakership and other offices in the House; to choose party leaders; and to play a role in selecting party members for positions on House committees.

§ 1.2 The determination and announcement of party policy is a function of the Democratic Caucus. See 118 CONG. REC. 13615, 92d Cong. 2d Sess., Apr. 20, 1972, where a resolution adopted by the Democratic Caucus on the Vietnamese war and U.S. military involvement in Indochina was inserted in the Record.

§ 1.3 *Note:* A steering committee is sometimes created within a party organization in the House. The purposes of such committees, as originally created, were to consult with various geographical groups on pending legislation, to promote unity among the groups, and to advise the party leadership as to legislative scheduling and floor strategy.

§ 1.4 The House authorized by resolution the employment of staff for the Democratic Steering Committee and the Republican Conference, and provided for the payment of their salaries from the contingent fund until otherwise provided by law. See, for example, 111 CONG. REC. 28563, 89th Cong. 1st Sess., Oct. 22, 1965. [H. Res. 625, to provide secretarial help for the party employees established by H. Res. 543, agreed to on Aug. 24, 1965.]

§ 1.5 An expense allowance of $5,000 each for the House Democratic Steering Committee and the Republican Conference was provided for by resolution. 112 CONG. REC. 170, 89th Cong. 2d Sess., Jan. 13, 1966.

§ 1.6 By unanimous consent the House considered and agreed to a resolution providing for the reimbursement of expenses incurred by staff persons and Members-elect while attending organizational caucuses or conferences. 121 CONG. REC. 35, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 10]. This was made permanent law in the 94th Congress; see Public Law No. 94-59, 89 Stat. 269.

§ 2. Floor Leaders; Whips

§ 2.1 *Note:* The Democratic Caucus elects a floor leader for each Congress, as does the Republican Conference. A floor leader, whether for the majority or minority party, plays an influential role in the formulation of legislative policy and programs. He is instrumental in guiding legislation favored by his party through the House, or in resisting those programs of the other party that are considered undesirable by his own party. He is the key figure in devising and implementing his party's strategy on the floor with respect to promoting or opposing legislation.

§ 2.2 The selection of the majority and minority leaders is announced to the House by the Chairmen of the Democratic Caucus and the Republican Conference, respectively. 117 CONG. REC. 13, 92d Cong. 1st Sess., Jan. 21, 1971; 119 CONG. REC. 16, 93d Cong. 1st Sess., Jan. 3, 1973.

§ 2.3 The Chairman of the Republican Conference announced to the House the selection of a minority leader to fill the vacancy caused by the resignation of Representative Gerald R. Ford to become Vice President. 119 CONG. REC. 40265, 93d Cong. 1st Sess., Dec. 7, 1973.

§ 2.4 The appointment of the majority whip is announced by the majority leader. 105 CONG. REC. 559, 86th Cong. 1st Sess., Jan. 12, 1959; 115 CONG. REC. 34, 91st Cong. 1st Sess., Jan. 3, 1969.

§ 2.5 The appointment of the minority whip is announced by the minority leader. 105 CONG. REC. 682, 86th Cong. 1st Sess., Jan. 15, 1959; 117 CONG. REC. 131, 92d Cong. 1st Sess., Jan. 22, 1971.

§ 2.6 The appointment of majority objectors for the Consent and Private Calendars is announced by the majority leader. 105 CONG. REC. 682, 86th Cong. 1st Sess., Jan. 15, 1959.

§ 2.7 The appointment of minority objectors for the Consent and Private Calendars is announced by the minority leader. 109 CONG. REC. 1538, 88th Cong. 1st Sess., Jan. 31, 1963; 105 CONG. REC. 2580, 86th Cong. 1st Sess., Feb. 18, 1959.

§ 2.8 Payment from the contingent fund of employee and equipment allowances for offices within the majority and minority leadership has been provided for by privileged resolution, reported from the Committee on House Administration. 119 CONG. REC. 12185, 12186, 93d Cong. 1st Sess., Apr. 12, 1973.

§ 2.9 An administrative assistant for any Member who has served both as majority and as minority leader of the House has been provided for by resolution. 111 CONG. REC. 957, 89th Cong. 1st Sess., Jan. 19, 1965.

§ 2.10 The House, by unanimous consent, considered and agreed to a resolution offered from the floor which (1) paid $49,000 from the contingent fund to the widow of the majority leader of the preceding Congress as a gratuity; (2) continued on the clerk-hire rolls persons employed by the majority leader at the close of the preceding Congress until the vacancy caused by his absence in the new Congress was filled by special election; (3) created a new position in the office of the majority leader; and (4) directed the Clerk to appoint to the House clerk-hire rolls two designated employees of the former majority leader until the vacancy was filled (and authorizing the Clerk to make appropriate salary adjustments). 119 CONG. REC. 27, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 8, authorizing expenditures in connection with the widow's gratuity and office expenses of former Majority Leader Hale Boggs].

§ 2.11 The Majority Leader announced to the House the appointment of the majority whip, the chief deputy whip, three deputy whips and, for the first time, three at-large whips to represent special interests, women, blacks, and first-term Members. 121 CONG. REC. 1159, 94th Cong. 1st Sess., Jan. 23, 1975.

§ 2.12 A resolution reported from the Committee on House Administration providing for additional staff assistance for the leadership and providing payment therefor from the contingent fund, and amending existing law, was, without challenge, called up as privileged. 121 CONG. REC. 13078, 94th Cong. 1st Sess., May 6, 1975 [H. Res. 413].

§ 3. Party Role in Assigning Members to Committees

§ 3.1 *Note:* Each party has created a Committee on Committees, whose function is to determine the assignments of the respective party members to positions on standing committees of the House, subject to approval by the party and by the House.

§ 3.2 The Committee on Committees, having been so instructed by the Democratic Caucus, reports a resolution electing the chairmen and members of a committee designated therein. 113 CONG. REC. 1086, 90th Cong. 1st Sess., Jan. 23, 1967.

§ 3.3 *Note:* Resolutions electing Democratic Members to committees (other than Ways and

Means) are offered in the House by the Chairman of the Democratic Committee on Committees. 114 CONG. REC. 24220, 90th Cong. 2d Sess., July 30, 1968.

§ 3.4 A resolution electing both Democratic and Republican Members to a newly created committee was presented to the House by the Chairman of the Democratic Committee on Committees [after consultation and with the approval of the minority leader] and called up as privileged. 115 CONG. REC. 3747, 91st Cong. 1st Sess., Feb. 18, 1969 [H. Res. 251, electing various Members to the Committee on Internal Security].

§ 3.5 In the absence of the Chairman, the ranking majority member of the Democratic Committee on Committees offers a resolution electing a new Democratic Member to a committee of the House. 112 CONG. REC. 15889, 89th Cong. 2d Sess., July 18, 1966.

§ 3.6 A Member may request that the Committee on Committees refrain from assigning him to any committees of the House pending a determination by the Democratic Caucus of his committee seniority. 113 CONG. REC. 1086, 90th Cong. 1st Sess., Jan. 23, 1967.

§ 3.7 *Note:* Democratic Members of the Committee on Ways and Means are nominated by the Democratic Caucus; and resolutions electing Members to the committee are privileged and are presented to the House by the chairman of the caucus. See 115 CONG. REC. 611, 91st Cong. 1st Sess., Jan. 14, 1969.

§ 3.8 The calling of the Democratic Caucus for the purpose of making nominations to the Committee on Ways and Means was announced to the House by the majority leader. 114 CONG. REC. 24269, 90th Cong. 2d Sess., July 30, 1968.

§ 3.9 The Democratic Committee on Committees has reported to the House a resolution leaving vacancies on certain standing committees pending further consideration by the caucus of the committee assignments and seniority thereon of a Member who had, in the preceding Congress, been stripped of his committee seniority (at the direction of the caucus) and assigned to the last position on these committees. See 113 CONG. REC. 1086, 90th Cong. 1st Sess., Jan. 23, 1967.

§ 3.10 *Note:* A Democratic Member who had refused to support the Presidential nominee of his party was reduced in committee seniority (as the result of party discipline enforced through the machinery of his party—the caucus and the Committee on Committees). See 115 CONG. REC. 2083, 91st Cong. 1st Sess., Jan. 29, 1969.

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Chapter 4

House Facilities and Grounds

§ 1. In General; Office Buildings and Suites

§ 2. Police Protection; Security Plans and Systems

§ 3. Admission to the Floor

§ 4. Electronic Devices; Signals, Bells, and Clocks

§ 5. Galleries

§ 6. Taking Photographs; Radio and Television Coverage

§ 1. In General; Office Buildings and Suites

§ 1.1 Rules and regulations governing the use of the House Office Buildings, the House garages, and the Capitol Power Plant, have been adopted by the House Office Building Commission. 111 CONG. REC. 23926, 89th Cong. 1st Sess., Sept. 15, 1965.

§ 1.2 The rules and regulations governing the House Office Buildings and related facilities were inserted in the Record by the majority leader. 111 CONG. REC. 23926, 89th Cong. 1st Sess., Sept. 15, 1965.

§ 1.3 New rules governing the selection and assignment of suites in the House Office Buildings were promulgated by the House Office Building Commission in the 95th Congress. 124 CONG. REC. 18209, 95th Cong. 2d Sess., June 19, 1978.

§ 1.4 A change in the "seniority" rule insofar as it relates to the assignment of office suites in the House Office Buildings has been made by the House Office Building Commission. In computing seniority in the assignment of office suites in the House Office Buildings, "longest continuous service" is interpreted as the longest period of uninterrupted service as a Member and not necessarily the last period of uninterrupted service as stated in 8 Cannon's Precedents § 3651. 113 CONG. REC. 5218, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 1.5 The Commission on the Extension of the Capitol originally consisted of the Speaker, the President of the Senate, the minority leaders of the two Houses and the Architect of the Capitol; it has since been enlarged to include the majority leaders of the House and Senate. 115 CONG. REC. 26568, 91st Cong. 1st Sess., Sept. 23, 1969. See Pub. L. No. 84-242 (Aug. 5, 1955), as amended by Pub. L. No. 84-406, Pub. L. No. 88-248, and Pub. L. No. 91-77.

§ 1.6 A statute authorizing the appropriation of such additional amounts as may be determined by the Commission for the Extension of the U.S. Capitol to be required "in accordance with scheme B of 1905 [referring to extension of the East central front] but with such modifications and additions as may be approved" was held to constitute sufficient authorization in law to support an appropriation in a general appropriation bill for the extension of the West central front. 119 CONG. REC. 12781, 12782, 93d Cong. 1st Sess., Apr. 17, 1973 [H.R. 6691, Legislative Branch Appropriations, fiscal 1974].

§ 1.7 By unanimous consent, the House considered and agreed to a resolution authorizing the House to accept the gift of a portrait of a former Minority Leader for display in the Capitol as approved by the Speaker. 120 CONG. REC. 37390, 93d Cong. 2d Sess., Nov. 26, 1974 [H. Res. 1477, accepting the gift of a portrait of Charles A. Halleck (Ind.)].

§ 2. Police Protection; Security Plans and Systems

§ 2.1 In April, 1968, federal troops took up positions around the Capitol pursuant to an Executive order authorizing the Secretary of Defense to mobilize the National Guard and to order regular armed forces into the District of Columbia to restore law and order, protect government property and prevent interference with government activities. 33 Fed. Reg. 5501, Apr. 9, 1968. *Note:* No specific authority was either requested or received from the Speaker or other Capitol officials prior to the assignment of troops to guard the Capitol. The Speaker was notified, by the Military District of Washington, via the Chief of the Capitol Police, that the Emergency Plan for Protection of the Capitol (previously approved by the Speaker and the Vice President) was being implemented. That plan provides for billeting

troops in the building and other particulars — communications, logistics support, cooperation between military and civilian law-enforcement personnel, etc.

§ 2.2 Funds for the installation of security apparatus, including video surveillance, intrusion detection, and parcel inspection systems, in the U.S. Capitol have been provided for by a concurrent resolution reported and called up as privileged by the Committee on House Administration. 118 CONG. REC. 8659, 92d Cong. 2d Sess., Mar. 16, 1972 [H. Con. Res. 550].

§ 2.3 A resolution from the Committee on House Administration, continuing in effect the provisions of a resolution of the preceding Congress which established additional positions on the U.S. Capitol police force, and providing for payment of salaries from the contingent fund, is reported and called up as privileged. 117 CONG. REC. 480, 92d Cong. 1st Sess., Jan. 26, 1971.

§ 3. Admission to the Floor

§ 3.1 Under Rule XXXII of the House Rules, admission to the floor of the House is restricted to those identified therein, and a point of order will lie to the presence of any unauthorized persons. 118 CONG. REC. 21704, 92d Cong. 2d Sess., June 21, 1972. *Note:* Objection was raised to the presence of certain Secret Service agents on the floor who had been assigned to protect two Members who were Presidential candidates. Secret Service agents do not have the privilege of the floor. And because the Speaker cannot waive the requirements of the rule, it was insisted that the agents be denied access to the floor.

§ 3.2 Rule XXXII governing admission to the floor of the House specifically prohibits the Speaker from entertaining motions or unanimous-consent requests to suspend that rule. 118 CONG. REC. 20318, 92d Cong. 2d Sess., June 8, 1972. In one instance, the Speaker ruled out of order a unanimous-consent request that certain petitioners be permitted, through a representative, to present a petition on the floor of the House relative to the war in Indochina. 118 CONG. REC. 18679-81, 92d Cong. 2d Sess., May 24, 1972.

§ 3.3 Although Rule XXXII restricts the classes of persons to whom the floor of the House is accessible, the customs and practices of the House permit certain other invited guests of the House to be admitted to the chamber while the House is in recess during a joint meeting with the Senate. 115 CONG. REC. 4546, 91st Cong. 2d Sess., Feb. 24, 1970.

§ 3.4 Rule XXXII, which permits clerks of committees access to the floor during the consideration of business from their committee, has been interpreted by the Speaker to allow only four professional staff members and one clerk on the floor at one time. 118 CONG. REC. 20318, 92d Cong. 2d Sess., June 8, 1972. The Speaker announced his intention to strictly enforce the provision in Rule XXXII interpreted to restrict to five the number of committee staff permitted on the floor at one time during the consideration of measures from their committees. 120 CONG. REC. 30027, 93d Cong. 2d Sess., Aug. 22, 1974.

§ 3.5 The Chairman of the Committee of the Whole reiterated the Speaker's ruling that only four professional staff members and one clerk of a committee were, under Rule XXXII, permitted on the floor at one time during consideration of business from that committee. 118 CONG. REC. 21705, 92d Cong. 2d Sess., June 21 1972 [H.R. 14370]; 118 CONG. REC. 23404, 92d Cong. 2d Sess. June 29, 1972 [H.R. 15692].

§ 3.6 *Note:* In computing the number of committee staff permitted to be on the floor under Rule XXXII, two members of the staff of the Legislative Counsel, who under § 503(3) of the Legislative Reorganization Act may be on

the floor to assist the committee, are not to be counted.

§ 3.7 Under Rule XXXII, the Speaker is prohibited from entertaining a unanimous-consent request that additional committee staff be permitted on the floor. 119 CONG. REC. 16774, 93d Cong. 1st Sess., May 23, 1973.

§ 3.8 *Note:* While Rule XXXII allows persons who have received the "Thanks of Congress" admission to the floor of the House, a concurrent resolution expressing appreciation to someone is not an "Act of Congress" and does not bestow the privilege.

§ 3.9 The Sergeant at Arms may be directed to clear the Senate Chamber of all clerks and other persons not having essential business therein so that order in the chamber might be restored. 110 CONG. REC. 10202, 88th Cong. 2d Sess., May 6, 1964.

§ 3.10 An assistant to a Member of the House of Representatives was permitted the privilege of the Senate floor during the consideration of a bill. 105 CONG. REC. 8746, 86th Cong. 1st Sess., May 21, 1959.

§ 3.11 The Speaker announced that only persons granted privileges of the floor under Rule XXXII would be permitted on the floor during a joint session to receive a message from the President. 120 CONG. REC. 1187, 93d Cong. 2d Sess., Jan. 29, 1974. In a similar instance, the Speaker announced that the House rule on admission to the floor would be strictly enforced during that evening's joint session to receive a message from the President. 121 CONG. REC. 9964, 94th Cong. 1st Sess., Apr. 10, 1975. In the 93d Congress, the Speaker announced that privileges of the floor would be strictly enforced during a joint session to receive a message from the President and that children of Members would not be permitted on the floor. 120 CONG. REC. 27713, 93d Cong. 2d Sess., Aug. 12, 1974; 120 CONG. REC. 34173, 93d Cong. 2d Sess., Oct. 7, 1974.

§ 3.12 A privileged resolution was reported from the Committee on Rules, amending Rule XXXII to permit former Members, officers, and certain former employees access to the floor of the House during its sessions only upon a signed pledge that they do not have a direct personal or pecuniary interest in any measure to be considered in the House or are not lobbying for or against any measure pending before the House or any committee. The resolution was adopted with a committee amendment in the nature of a substitute eliminating the registered pledge requirement and permitting them floor access under regulations promulgated by the Speaker only if: (1) They do not have a direct personal or pecuniary interest in a measure pending before the House or reported by a committee, and (2) only if they are not lobbying for or against any measure pending before the House, reported from committee or under consideration in any committee or subcommittee. It was indicated during debate on the resolution that former Members who by virtue of Cabinet rank or other office have an independent privilege of the floor would not be barred by virtue of this rule. 122 CONG. REC. 35175–80, 94th Cong. 2d Sess., Oct. 1, 1976 [H. Res. 1435]. The regulations referred to in H. Res. 1435 were promulgated by the Speaker and announced by him at the inception of the 95th Congress. 123 CONG. REC. 321, 95th Cong. 1st Sess., Jan. 6, 1977. *Note:* Under clause 3, Rule XXXII, and regulations promulgated thereunder, former Members and officers may not exercise floor privileges when legislation for which they are lobbying is under consideration in the House or in any committee or subcommittee—including any meeting or hearing thereof. See 124 CONG. REC. 16625, 95th Cong. 2d Sess., June 7, 1978, where the Speaker indicated that the Mayor of New York, a former Member, was prohibited from frequenting the floor and adjacent rooms when the New York Financial Assistance Act (H.R. 12426), was scheduled for consideration.

§ 3.13 Rule XXXII was amended to permit a Member, after notification to the Speaker, to bring one person from his staff on the floor during the pendency of that Member's amendment, solely to assist that Member. 123 CONG. REC. 55, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5]. Subsequently, the Speaker inserted in the *Congressional Record* regulations promulgated by him pursuant to his authority under Rule XXXII, as amended in the 95th Congress, to govern admission and conduct on the floor of committee staff, staff of the Legislative Counsel, and the personal staff of a Member with an amendment under consideration. 123 CONG. REC. 2333, 95th Cong. 1st Sess., Jan. 26, 1977.

§ 3.14 The Senate, by unanimous consent, has granted the privilege of the Senate floor to the House Parliamentarian and his assistants. 121 CONG. REC. 959, 94th Cong. 1st Sess., Jan. 23, 1975; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 23, 1979.

§ 3.15 The Speaker has directed that the corridors to the Chamber be cleared during roll call votes and quorum calls to assure Members unimpeded access to the floor at those times. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979.

§ 3.16 Pursuant to a motion that the House resolve itself into secret session and before the secret session commences, the Speaker may direct that the Chamber be cleared of all persons except Members and those officers and employees specified by the Speaker whose attendance on the floor is essential to the functioning of the session. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979. A point of order may not be directed against the presence in the Chamber of those House employees designated by the Chair as essential pursuant to a motion for a secret session providing that the Chamber be cleared of all persons except Members and those officers and employees deemed essential by the Speaker. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979 [proceedings relating to the Panama Canal treaty]. For a general discussion of secret sessions, see Ch. 29 § 36.

§ 4. Electronic Devices; Signals, Bells, and Clocks

§ 4.1 A directive that the House legislative electric bell and light signals be altered to distinguish between recorded votes in the House and quorum calls in the House or in Committee of the Whole was announced by the Speaker. He directed that on all roll call votes in the House—either where the yeas and nays have been ordered by one-fifth of those present or where a vote is being conducted under clause 4 Rule XV—two bells be rung to indicate that a recorded vote was in progress. He also announced that a call of the House pursuant to clause 2 Rule XV and a call of the roll in Committee of the Whole under clause 2 Rule XXIII would be indicated by ringing three bells. 116 CONG. REC. 612, 91st Cong. 2d Sess., Jan. 21, 1970.

§ 4.2 A resolution authorizing the Committee on House Administration to maintain and improve computer services of the House and making the contingent fund available for that purpose was reported and called up as privileged by that committee. 117 CONG. REC. 40015, 92d Cong. 1st Sess. Nov. 9, 1971.

§ 4.3 *Note:* Where there is a discrepancy in the times shown on the clocks in the House Chamber, the Chair relies on the clock on the north wall in deciding when time has expired. See 110 CONG. REC. 2724, 88th Cong. 2d Sess., Feb. 10, 1964.

§ 4.4 The Senate agreed to a resolution authorizing the Architect of the Capitol to install a "speech reinforcement system" in the Senate Chamber. 115 CONG. REC. 9155, 9158, Apr. 15, 1969.

§ 4.5 The Speaker inserted in the Record a detailed statement describing changes in the legislative bell and light system required by amendments to House rules (1) permitting the Chairman of the Committee of the Whole to vacate a quorum call when 100 Members have responded, and (2) permitting the Speaker to postpone proceedings on motions to suspend the rules on which record votes would be taken until the conclusion of all other suspension business. 120 CONG. REC. 14148, 14149, 93d Cong. 2d Sess., May 13, 1974. Other modifications of the legislative bell and light system in the 96th Congress were announced by the Speaker in 1979. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 23, 1979.

§ 4.6 The Speaker announced that all legislative requests, including requests that committees be permitted to sit while the House is meeting under the five-minute rule, should be made at one of the microphones on the floor to enable all Members to hear the requests. 121 CONG. REC. 34027, 94th Cong. 1st Sess., Oct. 28, 1975.

§ 5. Galleries

§ 5.1 The Speaker has advised occupants of the gallery that manifestations of approval are not in order under the rules of the House. 116 CONG. REC. 6175, 91st Cong. 2d Sess., Mar. 5, 1970 (where the Speaker responded to a point of order referring to the conduct of persons in the gallery); 116 CONG. REC. 27449-51, 91st Cong. 2d Sess., Aug. 5, 1970.

§ 5.2 The Speaker has admonished guests in the House Gallery that they must maintain order and refrain from manifestations of approval or disapproval of proceedings on the floor. 112 CONG. REC. 16837, 89th Cong. 2d Sess., July 25, 1966; 118 CONG. REC. 8, 92d Cong. 2d Sess., Jan. 18, 1972.

§ 5.3 In response to a point of order, the Chairman of the Committee of the Whole has admonished guests in the House Galleries that they must refrain from manifestations of approval or disapproval of proceedings on the floor. 116 CONG. REC. 14449, 91st Cong. 2d Sess., May 6, 1970; see also 115 CONG. REC. 21634, 91st Cong. 1st Sess., July 31, 1969, where, during consideration of H.R. 13111, the Chair upheld a point of order that applause was in violation of the rules of the House.

§ 5.4 The Speaker is authorized under clause 2 Rule I to order the galleries cleared in the event of disturbances therein. 118 CONG. REC. 9, 92d Cong. 2d Sess., Jan. 18, 1972.

§ 5.5 The Speaker is authorized under clause 2 Rule I to order the galleries cleared in the event of disturbances therein or closed in anticipation of such disturbances. 118 CONG. REC. 16576, 92d Cong. 2d Sess., May 10, 1972, where the Speaker announced, when the House convened, that the galleries would be closed to visitors "for the time being," based upon intelligence that certain persons would disrupt the proceedings of the House.

§ 5.6 The Speaker, having twice admonished spectators in the galleries to refrain from disorderly behavior, ordered all the galleries cleared when all the persons in one gallery stood and displayed signs indicating approval of proceedings on the floor demanding censure of the President. 118 CONG. REC. 9, 92d Cong. 2d Sess., Jan. 18, 1972. *Note:* Several Members had taken the floor for "one-minute speeches" to discuss the resolution of censure that had been introduced condemning the President's conduct of the war in Vietnam. During debate, the Speaker had twice cautioned persons in the galleries against disruptive conduct. Following a speech on an unrelated subject all the persons in Gallery 4 stood in unison and displayed signs censuring the President's conduct. The Speaker immediately sustained the point of order and ordered that all galleries be cleared.

§ 5.7 When certain visitors in the Senate Gallery created a disturbance and threw leaflets onto the floor of the Senate, the Presiding Officer ordered the demonstrators removed. A copy of the leaflets showered upon the floor by demonstrators in the Senate Gallery was inserted in the *Congressional Record.* 113 CONG. REC. 25004, 90th Cong. 1st Sess., Sept. 11, 1967.

§ 5.8 The Chairman of the Committee of the Whole directed doormen and guards to remove from the galleries participants in a disruption and advised all persons in the galleries that they were guests of the House and that any manifestations of approval or disapproval of proceedings violated House rules. 120 CONG. REC. 41427, 93d Cong. 2d Sess., Dec. 19, 1974 [H. Res. 1511, confirming Nelson A. Rockefeller as Vice President]. *Note:* Under 40 USC § 193f(b)(2)(4), it is unlawful to enter or remain in the gallery in violation of House rules of decorum or to disrupt proceedings of the House.

§ 6. Taking Photographs; Radio and Television Coverage

§ 6.1 The House, by resolution, permits its official photograph to be taken. This resolution may authorize the taking of the photograph while the House is in actual session. 110 CONG. REC. 3224, 88th Cong. 2d Sess., Feb. 20, 1964 [H. Res. 552].

§ 6.2 The House has posed for its official photograph. 110 CONG. REC. 3583, 88th Cong. 2d Sess., Feb. 25, 1964. *Note:* Since authority for this photograph had been granted by the House, through adoption of H. Res. 552 on February 20, 1964, the taking of the picture was an official action of the House and was noted in the Journal.

§ 6.3 A resolution permitting a photograph of the House when in session was called up and then withdrawn when the vote on its adoption was objected to on the ground that a quorum was not present. 110 CONG. REC. 2001, 88th Cong. 2d Sess., Feb. 5, 1964. *Note:* The House was in the midst of debate on the Civil Rights Act of 1963, and a Member did not want the historic photograph to be made while the bill was under debate.

§ 6.4 Where the photographers violated the ground rules regarding the taking of pictures in the House Chamber on opening day [in that they photographed proceedings on the floor at times when the kleig lights were not illuminated], the Speaker commented on such violations and directed each of the press galleries to report to him concerning remedial actions which would prevent such infractions of the rules in the future. 115 CONG. REC. 145, 91st Cong. 1st Sess., Jan. 6, 1969.

§ 6.5 By unanimous consent the House agreed to a resolution authorizing the United States Capitol Historical Society to take official pictures of the House while in actual session for inclusion in the new edition of "We the People." 121 CONG. REC. 22575, 94th Cong. 1st Sess., July 14, 1975 [H. Res. 597].

§ 6.6 By unanimous consent, the Senate considered and agreed to a resolution authorizing radio and television coverage of Senate proceedings to determine the contested election for a seat from the State of New Hampshire, contingent upon a time limitation on debate being ordered. 121 CONG. REC. 17864, 94th Cong. 1st Sess., June 9, 1975 [S. Res. 177]. *Note:* The proceedings were not televised because of problems relating to the installation of equipment.

§ 6.7 The House adopted a privileged resolution reported from the Committee on Rules authorizing television, radio, and photographic coverage of projected consideration of a resolution from the Committee on the Judiciary proposing the impeachment of the President, thereby waiving Speakers' rulings prohibiting such coverage, and creating a special

committee to make necessary arrangements for such coverage subject to approval of the Speaker. 120 CONG. REC. 27266, 27268, 27269, 93d Cong. 2d Sess., Aug. 7, 1974 [H. Res. 802].

§ 6.8 Prior to the 95th Congress, the rules and precedents of the House did not permit radio or TV broadcasts of House proceedings outside the Capitol, but the Speaker had, under his general control over the Hall of the House (Rule I clause 3), authorized an experiment for in-House transmission of floor proceedings. [See the debate on H. Res. 404, 95th Cong. to authorize the Committee on Rules to investigate a television broadcast test of House proceedings.] On March 15, 1977, the Speaker announced the beginning of an historic 90-legislative-day test of the recording of House proceedings, whereby an audiovisual transmission would be carried live to television sets within the Capitol but would not be released outside the Capitol. 123 CONG. REC. 7607, 95th Cong. 1st Sess., Mar. 15, 1977.

§ 6.9 In 1977, the House adopted a privileged resolution reported from the Committee on Rules to provide for a system of closed-circuit viewing of House proceedings and for the orderly development of a broadcasting system. The resolution, which did not directly amend the House rules, contained provisions: Authorizing the Speaker to establish a closed-circuit system in the Capitol and House Office Buildings with other telecommunications functions as he deemed appropriate; directing the Committee on Rules to study methods for providing complete audio and visual broadcasting of House proceedings and to report to the House as soon as practicable but by February 15, 1978; directing the Speaker, as soon as practicable after receipt of the committee's report, to establish a system subject to his direction and control for such broadcasts and to provide for distribution of recordings thereof; providing for access to live coverage of House proceedings by accredited correspondents; prohibiting coverage for political or commercial purposes; and authorizing the Speaker to delegate his responsibilities under the resolution to such legislative entity as he deemed appropriate. 123 CONG. REC. 35425, 95th Cong. 1st Sess., Oct. 27, 1977 [H. Res. 866].

§ 6.10 An amendment to a legislative branch appropriation bill prohibiting the use of funds therein to implement any system under which television cameras were controlled by persons who were not House employees was held in order as a limitation which did not directly amend the rules of the House and which did not expressly interfere with the Speaker's discretionary authority. 124 CONG. REC. 17662, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12935, legislative branch appropriations, fiscal 1979].

§ 6.11 The 96th Congress adopted provisions amending Rule I to continue the Speaker's authority relative to closed-circuit viewing of floor proceedings and unedited audio and visual broadcasting and recording of the proceedings of the House. See Rule X clause 9. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. Pursuant to his authority to implement television coverage of House proceedings, the Speaker announced that a Member would head an advisory panel and work with the Architect of the Capitol and the Clerk of the House in dealing with technical and other aspects of such coverage. 124 CONG. REC. 38770, 95th Cong. 2d Sess., Oct. 14, 1978. The House initiated a permanent system for broadcasting floor proceedings in February 1979. Broadcasts were available on closed circuit television in House offices, and on March 19, 1979, broadcasts were made available to the news media. On April 3, 1979, the broadcasting of House proceedings was extended to cable television systems throughout the country. 125 CONG. REC. p. ....., 96th Cong. 1st Sess.

§ 6.12 The Speaker announced that pursuant to Rule I clause 9(a), closed-circuit audiovisual coverage of House proceedings was intended for viewing in Members' offices only and was not to be utilized for commercial or political purposes. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 15, 1979.

Chapter 5

The House Rules, Journal, and Record

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A. The House Rules

§ 1. In General; Amendment

§ 1.1 The rules of the House are adopted and amended by resolution. 107 CONG. REC. 20823, 87th Cong. 1st Sess., Sept. 22, 1961; 109 CONG. REC. 14, 20, 88th Cong. 1st Sess., Jan. 9, 1963; 119 CONG. REC. 6713-20, 93d Cong. 1st Sess., Mar. 7, 1973 [H. Res. 272, providing for consideration of H. Res. 259, to amend Rule XI relative to open committee meetings and hearings, under a procedure permitting amendments under the five-minute rule]. See also 117 CONG. REC. 36013, 92d Cong. 2d Sess., Oct. 13, 1972 [H. Res. 1153, amending the rules of the House so as to give certain former officers and employees of the House privileges of the floor].

§ 1.2 The 88th Congress adopted the rules of the 87th with an amendment increasing from 12 to 15 the membership of the Committee on Rules. 109 CONG. REC. 14, 20, 88th Cong. 1st Sess., Jan. 9, 1963.

§ 1.3 Technical changes in the House rules, such as renumbering of paragraphs, resulting from the addition of a new committee, were made in the 85th Congress and continued in the 86th pursuant to resolution. 105 CONG. REC. 1209, 86th Cong. 1st Sess., Jan. 27, 1959.

§ 1.4 *Note:* A resolution amending the rules of the House is privileged when reported and called up by the Committee on Rules. See 113 CONG. REC. 10708-12, 90th Cong. 1st Sess., Apr. 25, 1967 [H. Res. 42, amending the rules of the House to permit cosponsorship of bills]. A resolution reported from the Committee on Rules amending the rules of the House is referred to the House Calendar and called up as privileged in the House under Rule XI clause 4. 122 CONG. REC. 4625, 94th Cong. 2d Sess., Feb. 26, 1976 [H. Res. 868, requiring two-hour availability of committee-reported measures].

§ 1.5 The House provides for the printing of the revised edition of the House Rules and Manual by resolution. 114 CONG. REC. 31313, 90th Cong. 2d Sess., Oct. 14, 1968; 118 CONG. REC. 37062, 92d Cong. 2d Sess., Oct. 18, 1972.

§ 1.6 The same practice is followed in the Senate. In 1979, the Senate adopted a resolution to revise and modernize the standing rules of the Senate, pursuant to a unanimous-consent request prohibiting amendments to the resolution. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 14, 1979 [S. Res. 274, to revise and modernize the standing rules of the Senate without substantive change in Senate procedures and to incorporate therein certain other rules of the Senate].

§ 1.7 A Senate joint resolution authorizing the printing and binding of a revised edition of *Senate Procedure* subject to copyright by the Senate Parliamentarian was reported and called up as privileged in the House by the Committee on House Administration. 118 CONG. REC. 26578, 92d Cong. 2d Sess., Aug. 3, 1972 [S.J. Res. 254].

§ 1.8 The House adopted a resolution providing for the printing of a revised edition of the House Rules and Manual, 94th Congress (with an increase from 1,500 to 2,000 copies for the use of the House). 120 CONG. REC. 41859, 93d Cong. 2d Sess., Dec. 20, 1974; 122 CONG. REC. 35337, 94th Cong. 2d Sess., Oct. 1, 1976. See 124 CONG. REC. 38685, 95th Cong. 2d Sess., Oct. 14, 1978.

§ 1.9 By unanimous consent, the House considered and passed a joint resolution reported from the Committee on House Administration providing for the printing and distribution of the precedents of the House, compiled by Lewis Deschler, former Parliamentarian of the House. 122 CONG. REC. 34220, 94th Cong. 2d Sess., Sept. 30, 1976 [H.J. Res. 1107].

§ 2. Special Rules for Particular Bills; Waivers

§ 2.1 The House has the power to adopt a special rule which has the effect of setting aside the standing rules of the House insofar as they impede the consideration of a particular bill. 113 CONG. REC. 34038, 90th Cong. 1st Sess., Nov. 28, 1967 [H. Res. 985].

§ 2.2 The House determines the rules of its proceedings; and it is not within the province of the Chair to rule out, on a point of order, a resolution which is properly before the House and which provides for a special order of business. 113 CONG. REC. 34038, 90th Cong. 1st Sess., Nov. 28, 1967 [H. Res. 985].

§ 2.3 The Speaker may recognize for unanimous-consent requests to waive the requirements of existing rules unless the rule in question specifies that it is not subject to waiver, even by unanimous consent; in other words, there are certain rules that the Speaker himself cannot waive and which are not subject to waiver by unanimous consent. 116 CONG. REC. 24619, 91st Cong. 2d Sess., July 29, 1970.

§ 2.4 One House may, pursuant to its constitutional authority under article I, section 5, change or temporarily waive provisions of law which have been enacted as rules of each House insofar as that law applies to the procedures of that House. 121 CONG. REC. 7677, 94th Cong. 1st Sess., Mar. 20, 1975 [H. Res. 337, providing for consideration of H.R. 4485, Emergency Middle-Income Housing Act of 1975].

§ 2.5 Under article I section 5 of the U.S. Constitution each House may make and change the rules governing its proceedings and is not precluded from changing or waiving rules enacted as statutory provisions. 123 CONG. REC. 36310, 36311, 95th Cong. 1st Sess., Nov. 1, 1977.

§ 3. Construction and Effect

§ 3.1 The effect of a proposed amendment to the rules is a matter for debate and not within the jurisdiction of the Chair to decide on a parliamentary inquiry. 113 CONG. REC. 10708-12, 90th Cong. 1st Sess., Apr. 25, 1967 [H. Res. 42, amending the rules of the House to permit cosponsorship of bills].

§ 3.2 When called upon to determine whether a new rule of the House should be construed to expedite the business of the House, the Chair is guided by the general principle that the object of a parliamentary body is action, and not stoppage of action. 118 CONG. REC. 33503, 92d Cong. 2d Sess., Oct. 3, 1972 [H.R. 7130].

§ 3.3 Where the rules of the House and a legislative enactment are not consistent, the most recent legislative expression will prevail. 107 CONG. REC. 18133, 87th Cong. 1st Sess., Sept. 5, 1961, wherein it was held that a provision in an appropriation bill reappropriating the unexpended balance of certain funds was in order, notwithstanding clause 5 Rule XXI, which bars the consideration of such measures, since the applicable legislative authorization bill specifically permitted such reappropriations and was a more recent expression of the will of the House.

§ 3.4 It is the duty of the Chair to determine whether language in a pending bill conforms with the rules of the House, but where the House has adopted a resolution waiving points of order against provisions in violation of the standing rules, the Chair will not ordinarily construe those provisions. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess., May 10, 1973 [H.R. 7447, supplemental appropriations, fiscal 1973].

B. The Journal

§ 4. In General

§ 4.1 The Journal is the official record of House proceedings, not a verbatim transcript; and it does not include the texts of "special orders" since they do not constitute "business." 111 CONG. REC. 23600, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 4.2 *Note:* The Journal contains the number, title and committee of reference on each bill or resolution introduced on the previous day. The Journal also contains the name of each Member who speaks pursuant to a "special order," and indicates the amount of time he has obtained therefor, but it does not contain a verbatim copy of his remarks.

§ 4.3 The names of Members responding to roll calls which have been entered in the Journal must be read when the Journal is read in full. 110 CONG. REC. 7355, 88th Cong. 2d Sess., Apr. 9, 1964.

§ 4.4 The transaction of business, even business privileged under Rule XI clause 25, is not in order before the reading or approval of the Journal. 114 CONG. REC. 30095, 90th Cong. 2d Sess., Oct. 8, 1968; compare 111 CONG. REC. 23596, 89th Cong. 1st Sess., Sept. 13, 1965, where six quorum calls and six record votes on procedural questions preceded the approval of the Journal on a day when the leadership had programmed several resolutions to be called up under the "21-day rule."

§ 4.5 In the Senate, the Journal is the official record of proceedings; and where there is a variance between a Journal and a *Congressional Record* entry, the Journal is controlling. 111 CONG. REC. 452, 89th Cong. 1st Sess., Jan. 8, 1965. When the Senate reconvenes in executive session following a recess, the Journal is not read since the reading and approval of the Journal is legislative business and is in order only in legislative session. 115 CONG. REC. 1304, 91st Cong. 1st Sess., Jan. 21, 1969.

§ 4.6 Where the two Houses had, by concurrent resolution, agreed to conduct no organizational or legislative business from January 3 to January 22, 1980, the Chair announced that his approval of the Journal under clause 1 Rule I would be postponed until the day scheduled for the resumption of legislative business. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 7, 1980.

§ 5. Reading

§ 5.1 Prior to 1971, the Journal was required to be read in full upon demand of any Member. 108 CONG. REC. 17651–54, 87th Cong. 2d Sess., Aug. 27, 1962; 108 CONG. REC. 19940, 87th Cong. 2d Sess., Sept. 19, 1962; 110 CONG. REC. 7355, 88th Cong. 2d Sess., Apr. 9, 1964; 110 CONG. REC. 18630, 88th Cong. 2d Sess., Aug. 8, 1964. In 1971, Rule I clause 1 was changed to permit the Speaker to approve the Journal, in which case, unless he ordered a reading thereof, the Journal was considered as read. That version of the rule permitted one motion that the Journal be read. In 1979, Rule I clause 1 was again amended to permit one motion that the Journal be read, but only where the Speaker's approval of the Journal has been disagreed to. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. As to the Speaker's approval of the Journal, see § 8, infra.

§ 5.2 Where demand was made that the Journal be read in full, the Clerk read the Journal in accordance with the practices and customs of the House. 111 CONG. REC. 23599, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 5.3 Where a demand that the Journal be read in full was made after a portion thereof had been read, the Clerk began a detailed reading at the point where the demand was

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made and did not return to reread that portion which had been passed. 111 CONG. REC. 23598, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 5.4 A message from the President of the United States, entered in the Journal, had to be read in its entirety when a demand was made therefor by a Member. 106 CONG. REC. 9413, 86th Cong. 2d Sess., May 4, 1960.

§ 6. — Interrupting Journal Readings

§ 6.1 The Speaker has entertained a parliamentary inquiry during the reading of the Journal. 110 CONG. REC. 7356, 88th Cong. 2d Sess., Apr. 9, 1964.

§ 6.2 Following interruption of the reading of the Journal for a call of the House, the Speaker received a message from the President prior to ordering the Clerk to resume reading of the Journal. 108 CONG. REC. 17651-54, 87th Cong. 2d Sess., Aug. 27, 1962.

§ 6.3 A Member could, by unanimous consent, secure recognition during the reading of the Journal. 110 CONG. REC. 7356, 88th Cong. 2d Sess., Apr. 9, 1964.

§ 6.4 In the Senate the reading of the Journal was temporarily waived pending discussion of the validity of the preceding day's adjournment. 111 CONG. REC. 17102-05, 89th Cong. 1st Sess., July 16, 1965.

§ 7. Motions

§ 7.1 For the modern rule permitting one motion that the Journal be read upon disagreement to the Speaker's approval thereof, see § 5, supra.

§ 7.2 A motion to amend the Journal is not in order until the reading thereof has been completed. 111 CONG. REC. 23598, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 8. — Motion to Approve

§ 8.1 Rule I clause 1 was amended in 1979 to provide that where the Speaker announces his approval of the Journal, such approval shall be deemed agreed to subject to a vote on agreeing to that approval on demand of any Member. If the Speaker's approval is disagreed to, one motion that the Journal be read is in order. See H. Res. 5, Jan. 15, 1979. See 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 15, 1979, where a Member demanded a vote on agreeing to the Speaker's approval of the Journal.

§ 8.2 The motion to amend the Journal may not be admitted after the previous question is demanded on the motion to approve. 111 CONG. REC. 23600, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 8.3 The previous question having been ordered on a motion to approve the Journal without debate, a Member may demand the right to debate the motion under Rule XXVII clause 3. 111 CONG. REC. 23602-06, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 8.4 The motion to lay on the table is of higher privilege than the demand for the previous question; and even though the previous question has been demanded on the motion to approve the Journal, the motion to lay on the table the motion to approve is entertained and first put. 111 CONG. REC. 23600, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 8.5 In the Senate, after the reading of the Journal, a motion to amend the Journal [a privileged motion under Senate Rule III] takes precedence over a motion to lay a House bill before the Senate and to make it the pending business [a motion in order during the morning hour, Rule VII clause 7]. 108 CONG. REC. 14857-59, 87th Cong. 2d Sess., July 26, 1962; 108 CONG. REC. 14892, 87th Cong. 2d Sess., July 27, 1962.

§ 8.6 A message from the Senate was received while the motion to approve the Journal was under debate. 111 CONG. REC. 23607, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 8.7 In the 96th Congress, the House eliminated the necessity for the appearance of a quorum before the Speaker's announcement of his approval of the Journal [H. Res. 5, Jan. 15, 1979]. The current rule specifies that it is not in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote [Rule XV clause 6(e)]. If a quorum fails to respond on a motion incident to the approval, reading, or amendment of the Journal, and there is an objection to the vote, a call of the House under Rule XV clause 4 is automatic. 123 CONG. REC. 3342, 95th Cong. 1st Sess., Feb. 2, 1977.

§ 8.8 Upon objection to the approval of the Journal by unanimous consent, the Chair puts the question on the approval thereof. 124 CONG. REC. 5496, 95th Cong. 2d Sess., Mar. 3, 1978.

C. THE CONGRESSIONAL RECORD

§ 9. In General; Format

§ 9.1 *Note:* The *Congressional Record* is divided into four main sections: (1) the proceedings of the House, (2) the proceedings of the Senate, (3) "Extensions of Remarks," and (4) the Daily Digest. A daily edition of the Record is published and distributed on each working day while Congress is in session, and a softbound edition, known as the "greenbound" edition, is published and distributed biweekly while Congress is in session. The hardbound permanent edition is generally ready for publication and distribution sometime subsequent to the conclusion of a session of Congress.

§ 9.2 The statement of a Senator may not be inserted in the House proceedings as carried in the *Congressional Record*. 108 CONG. REC. 291, 87th Cong. 2d Sess., Jan. 16, 1962.

§ 9.3 The House, by unanimous consent, has passed a bill authorizing the Public Printer to determine the cost to subscribers of the daily edition of the *Congressional Record*. 116 CONG. REC. 17652, 91st Cong. 2d Sess., June 1, 1970.

§ 9.4 The Joint Committee on Printing has notified Members that insertions of privately copyrighted material in the Record requires permission from the copyright holder and notification to the *Congressional Record* Clerk. 91st Cong. 2d Sess., Jan. 2, 1971.

§ 9.5 *Note:* An edition of the daily *Congressional Record* was printed in two parts when a heavy volume of material and personnel problems combined to prevent completion of a single edition in time for delivery to Congress the next morning. 91st Cong. 2d Sess., Apr. 23, 1970.

§ 9.6 Reprints from the *Congressional Record* may be ordered by Members, in accordance with rules of the Joint Committee on Printing; and Members ordering reprints of certain proceedings sometimes announce that Members' remarks will be included unless they register objection to being included in the reprint. 114 CONG. REC. 5764, 90th Cong. 2d Sess., Mar. 7, 1968.

§ 9.7 The Joint Committee on Printing has authorized extra copies of the *Congressional Record* [in black format due to the death of a President] to be delivered to each Member. 109 CONG. REC. 22807, 88th Cong. 1st Sess., Nov. 26, 1963.

§ 9.8 Where the two Houses have, by concurrent resolution, authorized a special printing of material extracted from the Record, the joint committee sometimes extends the normal 30-day limit for insertions in the Record to

give all Members ample opportunity to have their remarks included in the compilation. 115 CONG. REC. 18382, 91st Cong. 1st Sess., July 7, 1969.

§ 9.9 Where certain illustrations in a committee report ordered printed in the *Congressional Record* are omitted from the Record version due to mechanical printing limitations, such omissions are noted in the Record. 112 CONG. REC. 1754, 89th Cong. 2d Sess., Feb. 2, 1966.

§ 9.10 In 1979, the Joint Committee on Printing authorized the insertion of time-sequence notations at five-minute intervals in the House portion of the *Congressional Record,* in order to provide cross-references between the printed Record and the audio and videotaped versions of the House proceedings. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 29, 1979. *Note:* The new format also enables the public to purchase videotapes by identifying the time period shown in the Record.

§ 10. Matters Printed in the Record

§ 10.1 It is the intention of the Joint Committee on Printing that the body of the Record shall be substantially a verbatim report of proceedings as required by existing law, and that the Record should not be treated as a vehicle for excessively long material insertions which result in inordinately high costs. 118 CONG. REC. 17394, 92d Cong. 2d Sess., May 16, 1972.

§ 10.2 The House, in the interest of economy, occasionally agrees by unanimous consent to dispense with the printing in the Record of the text of an especially lengthy bill. See 109 CONG. REC. 10910, 88th Cong. 1st Sess., June 17, 1963; 109 CONG. REC. 18044, 88th Cong. 1st Sess., Sept. 25, 1963. See also 123 CONG. REC. 27218, 95th Cong. 1st Sess., Aug. 5, 1977 [H.R. 8444, the National Energy Act], where by unanimous consent an amendment in the nature of a substitute consisting of the text of another bill and made in order by a special rule was offered but not printed in full in the *Congressional Record* due to excessive printing costs.

§ 10.3 By unanimous consent, the printing of the text of a bill in the Record may be dispensed with and an explanatory statement inserted in lieu thereof. 108 CONG. REC. 5531, 87th Cong. 2d Sess., Apr. 2, 1962.

§ 10.4 *Note:* Bills providing for the codification of existing provisions of law are often voluminous. By dispensing with the printing of such bills in the Record and Journal, substantial costs are saved the government. It has been estimated that it costs $278 to print a single page of the Record.

§ 10.5 A 451-page committee amendment in the nature of a substitute, considered as having been read for amendment under a "closed rule," was printed in full in the Record. 117 CONG. REC. 21406-60, 92d Cong. 1st Sess., June 22, 1971 [H.R. 1, Social Security Act Amendments of 1971]. *Note:* The Chairman of the Committee on Ways and Means proposed the printing of the committee substitute because of the importance of its text to the public and its quick dissemination in the Record.

§ 10.6 *Note:* Bills referred to a committee are required to be printed in the Record by title.

§ 10.7 A Member has inserted in the Record a letter from the Chairman of the Committee on House Administration, announcing to Members the recommendation of the Subcommittee on Electrical and Mechanical Office Equipment with respect to the development, display and installation of electronic voting equipment in the House Chamber. 116 CONG. REC. 39085, 91st Cong. 2d Sess., Nov. 25, 1970.

§ 10.8 Where a law requires a governmental activity to report to Congress and specifies

that "The Clerk of the House . . . shall cause to be published in the *Congressional Record* all reports submitted pursuant to this law," the Parliamentarian furnishes a copy of the report to the Clerk at the time the communication is referred to committee; and the Clerk submits the report for printing in the Record. See 107 CONG. REC. 4816-18, 87th Cong. 1st Sess., Mar. 24, 1961; 108 CONG. REC. 4324, 87th Cong. 2d Sess., Mar. 15, 1962.

§ 10.9 Portions of the legal record in the case brought by Adam Clayton Powell, contesting the action of the House in excluding him from membership [see H. Res. 278, adopted on Mar. 1, 1967] were, at the request of the Majority Leader, inserted in the Record. 113 CONG. REC. 8729-62, 90th Cong. 1st Sess., Apr. 10, 1967. *Note:* The material was printed in 7½ point type—that normally reserved for printing actual proceedings of the House; 6½ point type is normally used for extraneous material in the body of the Record.

§ 10.10 At the time of adjournment, by unanimous consent, the Speaker and the Majority Leader may be given permission to summarize the work of the Congress in the Record. 118 CONG. REC. 37063, 92d Cong. 2d Sess., Oct. 18, 1972; 121 CONG. REC. 41975, 94th Cong. 1st Sess., Dec. 19, 1975.

§ 10.11 At the time of adjournment, committee and subcommittee chairmen and ranking minority members thereof may be given permission to summarize the work of their committees in the Record. 117 CONG. REC. 47677, 92d Cong. 1st Sess., Dec. 17, 1971; 118 CONG. REC. 37063, 92d Cong. 2d Sess., Oct. 18, 1972; 120 CONG. REC. 41860, 93d Cong. 2d Sess., Dec. 20, 1974.

§ 10.12 Unanimous consent is required to insert statements in the *Congressional Record* which are not actually made on the floor, and a motion to insert material in the *Congressional Record* is not in order. 122 CONG. REC. 21146, 94th Cong. 2d Sess., June 29, 1976.

§ 10.13 By unanimous consent, the transcript of the proceedings of the House on a previous day in secret session was printed in the *Congressional Record,* with revisions and deletions made by Members who participated in the debate, which revisions and deletions were mutually agreeable to the chairmen of the committees to which the transcript of the secret session had been referred on that previous day. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979 [proceedings relating to the Panama Canal treaty].

§ 11. Deletions

§ 11.1 A Member may seek unanimous consent to expunge from the *Congressional Record* unparliamentary remarks and extraneous material he had inserted therein. 88th Cong. 1st Sess., Feb. 27, 1963. *Note:* The insertion violated the rules of the House (1) by naming a Member of the Senate and (2) by insertion of derogatory material concerning a Member of the House (Adam Clayton Powell) who had no opportunity to respond.

§ 11.2 Unanimous-consent requests for the deletion of items from the *Congressional Record* are carried in the Journal. See H. Jour. 373, 87th Cong. 2d Sess. (1962).

§ 11.3 The House granted unanimous consent that a Member's insertion in the Appendix of the Record be expunged therefrom because it indirectly reflected on the motives of a Senator. 89th Cong. 2d Sess., Mar. 31, 1966.

§ 11.4 A Member may seek unanimous consent that certain material attributed to him that had been inserted in the Record without his authority be deleted from the permanent edition thereof. 89th Cong. 2d Sess., Sept. 21, 1966. *Note:* A staff employee of a Congressman had, without the Congressman's permission, inserted in the Record a speech that was highly critical of another Member, mentioning

him by name and impugning his motives in voting on certain legislation in the House. The Congressman, on his own initiative, asked that the speech be removed from the Record.

§ 11.5 A Member apologized to two other Members for having inserted derogatory material concerning the latter in the Appendix of the Record and secured unanimous consent that the offensive material be stricken. See 106 CONG. REC. 5780, 86th Cong. 2d Sess., Mar. 16, 1960.

§ 11.6 A Member has secured unanimous consent that certain obscene material he had inserted in the Record be deleted from the permanent edition thereof. H. Jour. 373, 87th Cong. 2d Sess., June 5, 1962. *Note:* The material inserted, and later withdrawn, dealt with pornographic material being sent through the mails to teenagers.

§ 11.7 The Government Printing Office has been authorized by the Chairman of the Joint Committee on Printing to delete profane extraneous material inserted in the Record. See 116 CONG. REC. 4543, 91st Cong. 2d Sess., Feb. 24, 1970. The Joint Committee on Printing refused to permit the inclusion in a Member's extension of remarks in the *Congressional Record* of excerpts from extraneous material which it considered to be profane. 122 CONG. REC. 13046, 94th Cong. 2d Sess., May 7, 1976. *Note:* A Member had submitted excerpts from certain publications hoping that the Joint Committee on Printing would refuse to permit them to be included in the *Congressional Record,* in order to dramatize his support of a ban on such materials.

§ 11.8 By unanimous consent, remarks inserted in the Record and attributed to a Member without his permission were deleted from the temporary and permanent Record at the request of that Member. 93d Cong. 2d Sess., July 31, 1974.

§ 12. Corrections

§ 12.1 The "permanent" *Congressional Record,* when printed and bound, cannot thereafter be changed. 91st Cong. 1st Sess., Jan. 23, 1969. [The Speaker declined to recognize a Member for a unanimous-consent request to correct remarks in the *Congressional Record* of the preceding Congress, but he informed the Member that his statement indicating the error would appear in the Record of the current date.]

§ 12.2 The *Congressional Record* may by unanimous consent be corrected to accurately reflect proceedings that have transpired in the House: to show the correct text of a bill passed under suspension of the rules (89th Cong. 1st Sess., Sept. 21, 1965); to reflect passage of a bill on the Private Calendar (89th Cong. 1st Sess., Aug. 25, 1965); to insert proceedings showing that a certain motion was made during debate in the Committee of the Whole (88th Cong. 2d Sess., Jan. 16, 1964); or to show the correct text of a Presidential message where the Record had printed a misleading copy (H. Jour. 279, 88th Cong. 1st Sess., Mar. 12, 1963).

§ 12.3 A resolution asserting that a portion of the debate carried in the *Congressional Record* of a preceding day is not a true and accurate record of the proceedings that took place, and directing that the *Congressional Record* be corrected to a carry a true and accurate record of the proceedings, presents a question of the privileges of the House under Rule IX. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 7, 1979 [H. Res. 260, correcting proceedings in the *Congressional Record* of May 3, 1979].

§ 13. Extensions of Remarks; Insertions

§ 13.1 *Note:* In 1968, the Appendix of the Record was replaced by a new heading, "Extensions of Remarks", intended to be the repository of all material inserted in the Record which is extraneous to the proceedings on the floor. Such extensions of remarks are indexed, by Member's name, in each issue of the Daily Digest portion of the daily Record. See 114 CONG. REC. 56, 90th Cong. 2d Sess., Jan. 5, 1968.

§ 13.2 The Chairman of the Joint Committee on Printing inserted in the Record a notice to Members that no extraneous material in excess of two Record pages would be printed in the Record unless accompanied by an estimate of cost. CONG. REC. (daily ed.), 93d Cong. 2d Sess., Aug. 22, 1974.

§ 13.3 When extraneous material proposed to be inserted in the Record exceeds two pages, the rules of the Joint Committee on Printing require that the Member state an estimate of cost when he asks unanimous consent to make the insertion. 108 CONG. REC. 2207, 87th Cong. 2d Sess., Feb. 12, 1962.

§ 13.4 *Note:* Where all Members are, by unanimous consent, given permission to extend their remarks in the Record (on days devoted to eulogies for a deceased Member), the permission does not waive the requirement of the Joint Committee on Printing that such extensions cannot (unless accompanied by an estimate of cost) exceed two pages. See 108 CONG. REC. 22850, 87th Cong. 2d Sess., Oct. 9, 1962.

§ 13.5 A Member announced his intention to object to unanimous-consent requests (1) to include extraneous matter in the body of the Record; (2) to extend remarks in the appendix and include therewith extraneous matter in more than one instance per day per Member; and (3) to extensions in either the body or the appendix when the request was made on behalf of an absent Member. 109 CONG. REC. 10630, 88th Cong. 1st Sess., June 11, 1963.

§ 13.6 The Speaker has taken the floor to suggest that a Member objecting to unanimous-consent requests for insertions in the Record might achieve his aim (that of reducing the cost of the *Congressional Record*) by introducing a resolution for consideration by the Committee on House Administration and the Joint Committee on Printing. 109 CONG. REC. 10672, 88th Cong. 1st Sess., June 11, 1963.

§ 13.7 Unanimous-consent requests for insertions in the Record are not received by the Speaker prior to the completion of the reading and approval of the Journal. 108 CONG. REC. 19940, 87th Cong. 2d Sess., Sept. 19, 1962.

§ 13.8 *Note:* A request that a Member be permitted to "extend his remarks [in the Record] following the approval of the Journal" permits the extension [if it is under 300 words] to be placed in the Record before the business of the day but does not assure that the extension will appear immediately following the approval of the Journal. Extensions that exceed the 300-word limitation appear following the business of the day in the portion of the Record devoted to special orders. See 113 CONG. REC. 29913-15, 30022, 90th Cong. 1st Sess., Oct. 25, 1967.

§ 13.9 Because of several unauthorized insertions of extensions of remarks in the Record, the Speaker announced that all extensions of remarks must be signed by the Member submitting them. 120 CONG. REC. 28385, 93d Cong. 2d Sess., Aug. 15, 1974.

§ 13.10 *Note:* The Chairman of the Joint Committee on Printing announced that extensions of remarks signed by Members must be submitted to official reporters of debates within 15 minutes after adjournment and that revisions of remarks would be accepted until 9 p.m. each day.

§ 13.11 The Chairman of the Joint Committee on Printing announced that he would request the Department of Justice to investigate the fraudulent insertion of remarks in the *Congressional Record*. 120 CONG. REC. 28385, 93d Cong. 2d Sess., Aug. 15, 1974. *Note:* Pursuant to the request of Representative Hays (Ohio), the Federal Bureau of Investigation initiated an investigation of the unauthorized insertions, but the investigation was rendered uncertain by the lack of proof that a federal criminal law had been violated, aside from possible forgery of the Member's name on the remarks.

§ 14. — Permitting Extensions or Insertions

§ 14.1 The Chairman of the Joint Committee on Printing inserted in the Record a notice to Members that only certain types of extraneous matter would be printed in the body of the Record. The notice stated that no extraneous matter may be printed except: (a) excerpts from letters, telegrams, or articles presented in connection with a speech delivered in the course of debate; (b) communications from state legislatures; (c) addresses or articles by the President and the Members of his Cabinet, the Vice President, or a Member of Congress. CONG. REC. (daily ed.), 93d Cong. 2d Sess., Aug. 22, 1974. Compare 118 CONG. REC. 16661, 16748-16836, 92d Cong. 2d Sess., May 10, 1972, where a Member who had been given the permission of the House to revise and extend his remarks in the Record inserted in the Extensions of Remarks section an 86-page document containing questions and answers on the Vietnam war which had been classified as secret by the Defense Department.

§ 14.2 The Joint Committee on Printing has adopted the following rules with respect to extensions of remarks in the Record. "When the House has granted leave to print (1) a newspaper or magazine article, or (2) any other matter not germane to the proceedings, it shall be published under Extensions of Remarks. This rule shall not apply to quotations which form part of a speech of a Member, or to an authorized extension of his own remarks: *Provided,* That no address, speech, or article delivered or released subsequently to the *sine die* adjournment of a session of Congress may be printed in the *Congressional Record*. One-minute speeches delivered during the morning business of Congress shall not exceed 300 words. Statements exceeding this will be printed following the business of the day.

"Any extraneous matter included in any statement by a Member, either under the 1-minute rule or permission granted to extend at this point, will be printed in the 'Extensions of Remarks' section, and that such material will be duly noted in the Member's statement as appearing therein.

"Under the general leave request by the floor manager of specific legislation only matter pertaining to such legislation will be included as per the request. This, of course, will include tables and charts pertinent to the same, but not newspaper clippings and editorials.

"In the makeup of the portion of the Record entitled 'Extensions of Remarks,' the Public Printer shall withhold any Extensions of Remarks which exceed economical press fill or exceed production limitations. Extensions withheld for such reasons will be printed in succeeding issues, at the direction of the Public Printer, so that more uniform daily issues may be the end result and, in this way, when both Houses have a short session the makeup would be in a sense made easier so as to comply with daily proceedings, which might run extremely heavy at times.

"The request for a Member to extend his or her remarks in the body of the Record must be granted to the individual whose remarks are to be inserted." 93d Cong. 2d Sess., Aug. 22, 1974.

§ 14.3 The House, and not the Committee of the Whole, controls the insertion of extraneous material in the *Congressional Record*, and a Member must obtain permission of the House to include such material with his remarks made in the Committee. 115 CONG. REC. 24372, 91st Cong. 1st Sess., Sept. 4, 1969 [during consideration of H.R. 12085, extending the Clean Air Act]; 117 CONG. REC. 45542, 92d Cong. 1st Sess., Dec. 8, 1971 [H.R. 1163, strategic storable agricultural commodities legislation]; 117 CONG. REC. 38070, 92d Cong. 1st Sess., Oct. 28, 1971 [H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education].

§ 14.4 It was indicated in debate that a Member may not, under leave to revise and extend his remarks in the Record, alter the nature of a colloquy with another Member. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 7, 1979. It is equally improper to insert a colloquy. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 29, 1980 [H.R. 4788]. *Note:* An attempt to develop legislative history by inserting an apparent colloquy in the Record by unanimous consent is clearly improper, since the purpose of the request is to permit a Member to insert only such materials as do not affect the statement of another Member.

§ 14.5 The Joint Committee on Printing amended the rules for publication of the *Congressional Record*, effective March 1, 1978, to require the identification by "bullet" symbols of statements or insertions in the *Congressional Record*, no part of which were actually delivered in debate. 124 CONG. REC. 3676, 95th Cong. 2d Sess., Feb. 20, 1978.

§ 14.6 Although unanimous-consent requests for insertions in the *Congressional Record* are normally presented to the House en bloc at the end of the day by the Majority and Minority Leaders or their designees, a Member can object or reserve the right to object to the request en bloc or only to certain of those requests when made. 122 CONG. REC. 21165, 94th Cong. 2d Sess., June 29, 1976.

§ 14.7 The Chair will not entertain a unanimous-consent request that a Member be permitted to revise and extend his remarks on a point of order. 123 CONG. REC. 33771, 95th Cong. 1st Sess., Oct. 14, 1977. And the Chair has refused to permit by unanimous consent the insertion in the *Congressional Record*, immediately following a roll call vote on an amendment, a previous record vote on the same subject. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 30, 1980 [H.R. 5980].

§ 15. — General Permission to Extend

§ 15.1 On days when the House transacts no business and adjourns out of respect for a deceased Member, all Members may be granted permission to extend their remarks in the "Extensions" section of the Record. 106 CONG. REC. 13412, 86th Cong. 2d Sess., June 20, 1960; 107 CONG. REC. 2236, 87th Cong. 1st Sess., Feb. 16, 1961; 107 CONG. REC. 19802, 19812, 87th Cong. 1st Sess., Sept. 16, 1961; 109 CONG. REC. 17013, 88th Cong. 1st Sess., Sept. 16, 1963; 117 CONG. REC. 11807, 11822-30, 92d Cong. 1st Sess., Apr. 26, 1971.

§ 15.2 All Members who had spoken on legislative business before the House were given authority to revise and extend their remarks, and include extraneous matter, on a day when the House conducted no further business and adjourned out of respect for a deceased colleague. 107 CONG. REC. 19802, 19812, 87th Cong. 1st Sess., Sept. 16, 1961.

§ 15.3 All Members having special orders were permitted to extend their remarks in the body of the *Congressional Record*, due to the adjournment of the House out of respect to a deceased Member. 107 CONG. REC. 19802, 19812, 87th Cong. 1st Sess. Sept. 16, 1961.

§ 15.4 At the conclusion of a session of Congress, all Members may be granted permission to extend remarks in the *Congressional Record*, until the final edition thereof, on any matter arising prior to adjournment. 117 CONG. REC. 47677, 92d Cong. 1st Sess., Dec. 17, 1971; 118 CONG. REC. 37063, 92d Cong. 2d Sess., Oct. 18, 1972; 120 CONG. REC. 41860, 93d Cong. 2d Sess., Dec. 20, 1974.

§ 15.5 At the conclusion of a session, the chairmen of all committees may be given permission to extend their remarks in the *Congressional Record* explaining the activities of their committees. 105 CONG. REC. 19745, 86th Cong. 1st Sess., Sept. 15 (Legislative Day of Sept. 14), 1959; 107 CONG. REC. 21529, 87th Cong. 1st Sess., Sept. 27 (Legislative Day, Sept. 25), 1961. In the 95th Congress, the request included ranking minority members of committees and subcommittees. 124 CONG. REC. 38685, 95th Cong. 2d Sess., Oct. 14, 1978.

§ 15.6 By unanimous consent, Members were permitted to extend their remarks, bearing their original signatures, in the *Congressional Record* during an adjournment to a day certain on subjects occurring prior to the adjournment. 120 CONG. REC. 30078, 30079, 93d Cong. 2d Sess., Aug. 22, 1974.

§ 15.7 At the conclusion of a session of Congress, the Speaker and Majority Leader may be granted permission to extend their remarks in the *Congressional Record* until publication of the last edition thereof. 121 CONG. REC. 41975, 94th Cong. 1st Sess., Dec. 19, 1975.

§ 15.8 Remarks relating to a pending measure and placed in the *Congressional Record* pursuant to general leave for all Members to revise and extend are inserted at the end of the debate on the pending proposition. 123 CONG. REC. 13249, 95th Cong. 1st Sess., May 3, 1977.

Chapter 6

Officers and Staff

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A. THE SPEAKER

§ 1. In General

§ 1.1 *Note:* The Speaker, as the presiding officer of the House, maintains order, manages its proceedings, and governs the administration of its business. The Speaker of the House is second in line of succession to the Presidency (3 USC § 19).

§ 1.2 The Speaker's role is an impartial one, and his rulings serve to protect the right of the minority to be heard. 109 CONG. REC. 10151-65, 88th Cong. 1st Sess., June 4, 1963. *Note:* Special-order speeches began about 4:20 p.m., but due to repeated quorum calls and other delaying tactics they were not concluded until about 9:45 p.m. The House leadership thought that the minority members should have the right to be heard and resisted repeated attempts to adjourn until the special orders were completed.

§ 1.3 The Speaker, seeking to protect the interests of the minority, asked unanimous consent that an order of the House be vacated where it appeared that the request for the order had not been heard by the minority leader. 111 CONG. REC. 10871, 89th Cong. 1st Sess., May 18, 1965.

§ 1.4 Where the Speaker designates Members to attend an international conference at the request of the executive branch and not pursuant to law, the appointments are made without action on the part of the House, and he normally does not announce such designations to the House. But where the House has passed a resolution authorizing him to make such appointments, the Speaker does inform the House of his action. 109 CONG. REC. 9896, 88th Cong. 1st Sess., May 31, 1963.

§ 1.5 The Speaker sometimes inserts in the Record his analysis of a session of Congress and the accomplishments of the House therein. 109 CONG. REC. 25556, 88th Cong. 1st Sess., Dec. 24, 1963.

§ 1.6 In the 91st Congress, the House for the first time provided office space and funded other official expenses of a former Speaker. 116 CONG. REC. 43314, 91st Cong. 2d Sess., Dec. 22, 1970. Permanent law now provides office space, staff, stamps, stationery, and certain office equipment as long as needed for each former Speaker. 2 USC §§ 31b-1 to 31b-6.

§ 2. Jurisdiction and Power; Rulings

§ 2.1 It is for the House and not the Chair to determine the legal significance of House actions; and the Chair does not anticipate what interpretation the House may later give to a pending amendment. 113 CONG. REC. 5019, 90th Cong. 1st Sess., Mar. 1, 1967 [H. Res. 278, relating to the right of Representative-elect Adam C. Powell to be sworn]. Although the Chair may in response to a parliamentary inquiry indicate the form of a pending amendment and identify the proposition to which it is offered, it is not within the province of the Chair to construe the legislative effect of a pending amendment. 123 CONG. REC. 26161, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 8444, National Energy Act]. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 4, 1979 [H.R. 3324]. For the same reason, the Chair does not respond to hypothetical inquiries on the legislative effect of an amendment which has not been offered. 123 CONG. REC. 32606, 95th Cong. 1st Sess., Oct 6, 1977 [H.R. 8410, the Labor Reform Act of 1977].

§ 2.2 The Chair will not ordinarily render anticipatory rulings as to the propriety of amendments which have not been offered. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 9, 1979 [H. Con. Res. 107]. Thus, the Chair will not prejudge the germaneness of an amendment which is not before the House.

115 CONG. REC. 25-27, 91st Cong. 1st Sess., Jan. 3, 1969. However, the Chair may respond to a parliamentary inquiry as to the germaneness and form of an amendment which has been printed in the *Congressional Record* and is at the desk and which is manifestly not in order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 9, 1979 [H. Con. Res. 107].

§ 2.3 The Chair does not rule on hypothetical questions. 115 CONG. REC. 38123, 38130, 91st Cong. 1st Sess., Dec. 10, 1969.

§ 2.4 The Speaker does not rule on questions that are the province of, and must be decided by, the Chairman of the Committee of the Whole. 115 CONG. REC. 38123, 38130, 91st Cong. 1st Sess., Dec. 10, 1969 [H. Res. 714].

§ 2.5 The Speaker declined, in response to a parliamentary inquiry, to interpret the provisions of a resolution which would control the consideration of amendments in Committee of the Whole. 119 CONG. REC. 12501-03, 93d Cong. 1st Sess., Apr. 16, 1973 [H. Res. 357].

§ 2.6 During consideration in the House of a resolution waiving points of order against a designated amendment containing legislation relative to a general appropriation bill, the Speaker declined to respond to parliamentary inquiries concerning amendments which might be offered to that amendment in Committee of the Whole. 119 CONG. REC. 22336, 22337, 93d Cong. 1st Sess., June 29, 1973 [H. Res. 479].

§ 2.7 The Speaker does not rule on the constitutionality of rules adopted by the House other than to interpret the rules consistently with constitutional requirements. 123 CONG. REC. 28123, 28124, 95th Cong. 1st Sess., Sept. 8, 1977; 123 CONG. REC. 28801, 95th Cong. 1st Sess., Sept. 12, 1977. In 1978, a point of order against an amendment to the International Development and Food Assistance Act, prohibiting the contribution of certain funds to the United Nations unless the Congress has received proof of and has been satisfied that certain conditions had been met, on the ground that the amendment granted executive power to Congress in violation of the Constitution, was overruled since the Chair does not rule on the constitutionality of amendments. 124 CONG. REC. 13325, 95th Cong. 2d Sess., May 11, 1978 [H.R. 12222].

§ 2.8 Questions of law or of legal interpretation are not decided by the Presiding Officer of the Senate but are submitted to the Senate for determination. 108 CONG. REC. 2417, 2419, 87th Cong. 2d Sess., Feb. 19, 1962. Nor does the Presiding Officer of the Senate decide questions of constitutional interpretation. 105 CONG. REC. 19553, 86th Cong. 1st Sess., Sept. 14, 1959.

§ 2.9 It is not within the province of the Chair to pass on the validity of legislation on regulations enacted by the D.C. City Council. 122 CONG. REC. 31874, 94th Cong. 2d Sess., Sept. 22, 1976.

§ 2.10 The Chair does not rule on the consistency of an amendment with the proposition to which offered. 123 CONG. REC. 32495, 95th Cong. 1st Sess., Oct. 5, 1977 [H.R. 8410, the Labor Reform Act of 1977]. Likewise, the Chair does not rule on the consistency of a proposed amendment with an amendment already adopted. 123 CONG. REC. 29440, 95th Cong. 1st Sess., Sept. 15, 1977.

§ 3. Participation in Debate

§ 3.1 The Speaker's usual role is that of the presiding officer, whose approach is essentially unbiased and nonpartisan. However, there have been many instances in which the Speaker has relinquished the Chair and participated in the debate on the floor. 105 CONG. REC. 17237, 86th Cong. 1st Sess., Aug. 27, 1959; 106 CONG. REC. 14088, 14091, 86th Cong. 2d Sess., June 23, 1960; 108 CONG. REC. 7981-83, 87th Cong. 2d Sess., May 8, 1962; 110 CONG. REC. 14344, 88th Cong. 2d Sess., June 18, 1964.

§ 3.2 The Speaker has taken the floor for a one-minute speech to discuss the coequal status of the two Houses of Congress. 116 CONG. REC. 3998, 91st Cong. 2d Sess., Feb. 19, 1970.

§ 3.3 The Speaker took the floor to commend a Member for a speech he made on the subject of the nuclear test ban talks then taking place in Geneva, Switzerland. 107 CONG. REC. 10410, 87th Cong. 1st Sess., June 14, 1961.

§ 3.4 The Speaker took the floor to comment on a news column which was critical of the majority leader. 107 CONG. REC. 10412, 87th Cong. 1st Sess., June 14, 1961.

§ 3.5 There have been a number of instances in which the Speaker has participated in debate in the Committee of the Whole. 106 CONG. REC. 18734, 86th Cong. 2d Sess., Aug. 31, 1960 [H.R. 13021, providing assistance in development of Latin America and in reconstruction of Chile]; 108 CONG. REC. 5398, 87th Cong. 2d Sess., Mar. 29, 1962 [H.R. 10650, Revenue Act of 1962]; 108 CONG. REC. 7962, 87th Cong. 2d Sess., May 8, 1962 [during debate on H.R. 8617, relating to the Philippine War Damage Commission]; 108 CONG. REC. 10494, 87th Cong. 2d Sess., June 14, 1962 [during debate on H.R. 11990, temporarily increasing the public debt limit to $308 billion].

§ 3.6 The Speaker took the floor to support consideration by unanimous consent of a concurrent resolution authorizing appointment of a delegation to accept the British Parliament's loan of the Magna Carta, a resolution similar to one previously rejected by the House without extended debate. 122 CONG. REC. 6782, 94th Cong. 2d Sess., Mar. 9, 1976 [Speaker Albert].

§ 3.7 The Speaker took the floor to inform the Members that he had requested the South Korean Ambassador to the United States to inform the President of South Korea that the testimony of a South Korean citizen was necessary to the investigation being conducted by the Committee on Standards of Official Conduct on South Korean influence in Congress, and that failure of the South Korean government to arrange for such testimony would damage relations between South Korea and the United States. 124 CONG. REC. 395, 95th Cong. 2d Sess., Jan. 23, 1978.

§ 3.8 The Speaker took the floor for a one-minute speech to respond to a question of personal privilege relating to remarks made to the press by the Speaker criticizing another Member of the House. 124 CONG. REC. 3854, 95th Cong. 2d Sess., Feb. 21, 1978. See also Ch. 11 § 15, infra.

B. THE SPEAKER PRO TEMPORE

§ 4. In General; Election or Appointment

§ 4.1 *Note:* The function of the Speaker pro tempore is to act for, and to assume certain of the duties, powers, and functions of the Speaker during the Speaker's absence. He may be designated by the Speaker for a period not to exceed three legislative days; for longer periods, the Speaker pro tempore is approved or elected by the House. (Rule I clause 7.)

§ 4.2 A Speaker pro tempore to serve during the absence of the Speaker, has been elected by resolution. 106 CONG. REC. 3483, 86th Cong. 2d Sess., Feb. 25, 1960; 112 CONG. REC. 5823, 89th Cong. 2d Sess., Mar. 15, 1966 [where a Speaker pro tempore was elected so that he could sign the Tax Adjustment Act of 1966 (H.R. 12752), which the President wanted to sign later that day]. See also 122 CONG. REC. 15085, 94th Cong. 2d Sess., May 21, 1976, where the House by privileged resolution (H. Res. 1211) elected a Member as Speaker pro tempore during the temporary (one week) absence of the Speaker.

§ 4.3 A Speaker pro tempore by designation leaves the Chair pending the offering of a resolution electing him as Speaker pro tempore during the absence of the Speaker. 112 CONG. REC. 6, 89th Cong. 2d Sess., Jan. 10, 1966.

§ 4.4 A resolution electing a Speaker pro tempore was offered by the Chairman of the Democratic Caucus. 112 CONG. REC. 60, 89th Cong. 2d Sess., Jan. 10, 1966. *Note:* The Speaker was not in Washington for the convening of the second session because of the death of his brother. Since the duration of the Speaker's absence was uncertain, and since there were new Members present to be sworn as well as business requiring signature, the election of a Speaker pro tempore was considered essential.

§ 4.5 In the House, a designated Speaker pro tempore may not sign enrolled bills during the absence of the Speaker, whereas an elected Speaker pro tempore may. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 5, 1979. In the Senate, an appointed President pro tempore may, pursuant to a standing order of that body, sign enrolled bills. 116 CONG. REC. 21632, 21642, 91st Cong. 2d Sess., June 26, 1970.

§ 4.6 *Note:* Where the Speaker has been granted permission to declare recesses during the remainder of the session, this authority has been construed to extend to a Speaker pro tempore, designated by the Speaker. See 109 CONG. REC. 25592, 88th Cong. 1st Sess., Dec. 30, 1963, where a designated Speaker pro tempore, acting pursuant to authority granted the Speaker to declare recesses at any time, declared the House in recess to await a message from the Senate.

§ 4.7 Where a designated Speaker pro tempore is presiding, a Presidential message is referred to committee and ordered printed only by unanimous consent. 112 CONG. REC. 22049, 22052, 89th Cong. 2d Sess., Sept. 8, 1966. See also 112 CONG. REC. 909-917, 89th Cong. 2d Sess., Jan. 24, 1966 and 113 CONG. REC. 24843, 90th Cong. 1st Sess., Aug. 31, 1967.

§ 4.8 Unanimous consent is required for a (designated) Speaker pro tempore to announce appointments made by the Speaker pursuant to law. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 31, 1979.

§ 4.9 The Speaker, desiring to be absent for a few days, designated the Majority Whip to act as Speaker pro tempore when the House convened, and the House then elected a Speaker pro tempore, the Majority Leader; the designated Speaker pro tempore administered the oath of office to him. 120 CONG. REC. 3514, 93d Cong. 2d Sess., Feb. 20, 1974 [H. Res. 884].

§ 4.10 A privileged resolution electing a Speaker pro tempore during the absence of the Speaker was offered by the Majority Leader. 121 CONG. REC. 20967, 94th Cong. 1st Sess., June 26, 1975 [H. Res. 571, electing the Majority Whip as Speaker pro tempore during the absence of the Speaker]. *Note:* Frequently but not invariably resolutions electing a Speaker pro tempore are offered by the Chairman of the Democratic Caucus or the Republican Conference as the case may be, and the individual elected is the Majority Leader. Since the Majority Whip was being elected in this case it was considered appropriate for the resolution to be offered by the Majority Leader.

§ 4.11 The Speaker may administer the oath of office to an elected Speaker pro tempore. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 20, 1979. However, an elected Speaker pro tempore may request the Dean of the House to administer the oath of office to him. 121 CONG. REC. 8947, 94th Cong. 1st Sess., Mar. 26, 1975. A designated Speaker pro tempore has sometimes requested a Member to administer the oath of office to an elected Speaker pro tempore. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 5, 1979. *Note:* The elected Speaker pro tempore normally takes the

Chair and requests a *Member (often the* "Dean" of the House or the senior Member then present) to administer the oath of office to him, and unanimous consent is not required to permit that Member to administer the oath. However, when a designated Speaker pro tempore himself administers an oath, unanimous consent is required.

§ 4.12 Following the adoption of the resolution electing the majority whip as Speaker pro tempore, the Speaker may request the Dean of the House to administer the oath of office to the Speaker pro tempore. 121 CONG. REC. 20967, 94th Cong. 1st Sess., June 26, 1975 [H. Res. 571].

§ 5. Who May Serve

§ 5.1 The Speaker designated the Dean of the House to act as Speaker pro tempore when the House convened on January 20, 1965, preceding the inaugural ceremonies. 111 CONG. REC. 946, 89th Cong. 1st Sess., Jan. 19, 1965.

§ 5.2 The acting Majority Leader took the Chair where the Speaker pro tempore addressed the House from the well, commenting on the accomplishments of the session and conveying to the House a personal message from the Speaker. 107 CONG. REC. 21545, 87th Cong. 1st Sess., Sept. 27 [Legislative Day, Sept. 25], 1961.

§ 5.3 The majority whip assumed the Chair during the election of the majority leader as Speaker pro tempore. 109 CONG. REC. 22015, 88th Cong. 1st Sess., Nov. 18, 1963.

§ 5.4 On ceremonial occasions, the minority leader has been named to perform the duties of the Chair as Speaker pro tempore. 107 CONG. REC. 10035-58, 87th Cong. 1st Sess., June 12, 1961.

§ 6. Term or Duration of Office

§ 6.1 The Speaker sometimes designates a Speaker pro tempore for a period of one day. 105 CONG. REC. 13220, 86th Cong. 1st Sess., July 13, 1959; 106 CONG. REC. 2424, 86th Cong. 2d Sess., Feb. 11, 1960.

§ 6.2 The Speaker has designated a Speaker pro tempore for a period of two days. 108 CONG. REC. 19516, 87th Cong. 2d Sess., Sept. 14, 1962.

§ 6.3 The House agreed to a privileged resolution electing a Speaker pro tempore during the forthcoming absence of the Speaker over an Easter recess and terminating that authority on a date certain. 121 CONG. REC. 8947, 94th Cong. 1st Sess., Mar. 26, 1975 [H. Res. 369, electing a Speaker pro tempore from Mar. 26, 1975 to Apr. 11, 1975]. *Note:* The Speaker was not scheduled to return from his trip to China until Apr. 8; it was decided to extend the authority of the Speaker pro tempore to act for several additional days in the event of a delay in the Speaker's return.

§ 6.4 In 1979, the House by privileged resolution elected a Member as Speaker pro tempore during *any* absence of the Speaker for the remainder of the first session and until January 22, 1980 (beginning of legislative business for the second session). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 20, 1979 [H. Res. 519].

C. OTHER OFFICERS AND OFFICIALS

§ 7. In General; Elections

§ 7.1 The officers of the House for each Congress are elected by resolution. 115 CONG. REC. 34, 91st Cong. 1st Sess., Jan. 3, 1969 [H.

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Res. 3]; 117 CONG. REC. 13, 92d Cong. 1st Sess., Jan. 21, 1971 [H. Res. 1]; 119 CONG. REC. 16, 17, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 2].

§ 7.2 The Chairman of the Democratic Caucus offered a resolution electing an officer of the House, following the nomination of that officer by the caucus. 118 CONG. REC. 21691, 92d Cong. 2d Sess., June 21, 1972 [H. Res. 1023, electing the Postmaster of the House].

§ 7.3 A privileged resolution electing a Sergeant at Arms of the House, effective October 1, 1972, was offered by the Chairman of the Democratic Caucus. 118 CONG. REC. 8718, 92d Cong. 2d Sess., Sept. 25, 1972 [H. Res. 1134, electing the Sergeant at Arms of the House].

§ 7.4 A resolution electing an officer of the House to fill a vacancy caused by a resignation is offered from the floor as privileged. 118 CONG. REC. 21691, 92d Cong. 2d Sess., June 21, 1972 [H. Res. 1023].

§ 7.5 The resolution electing officers of the House was divided, at the request of the Chairman of the Republican Conference, so that the House might have a separate [unanimous] vote on the election of Chaplain, there being no minority party candidate for that office provided in the Republican substitute for the resolution. 119 CONG. REC. 16, 17, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 2]. See also 123 CONG. REC. 52, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 1, electing officers of the House for the 95th Congress].

§ 7.6 An Acting Chaplain of the House is appointed by the Speaker to fill a vacancy caused by the death of the Chaplain. 112 CONG. REC. 5712, 89th Cong. 2d Sess., Mar. 14, 1966. *Note:* The Doorkeeper of the House, acting for the Speaker and at his request, made all arrangements for the daily prayers during the period following the death of the Chaplain. The Speaker informed the Acting Chaplain that after his appointment was announced, he should continue to honor those commitments which had previously been made for visiting Chaplains.

§ 7.7 A Member who was an ordained minister offered the opening prayer in the unexpected absence of the Chaplain. 119 CONG. REC. 17441, 93d Cong. 1st Sess., May 31, 1973.

§ 7.8 A woman member of the clergy or rabbi has offered a prayer to open a session of the House. 117 CONG. REC. 44882-84, 92d Cong. 1st Sess., Dec. 6, 1971. *Note:* June 9, 1948 was the first occasion on which the prayer had been delivered by a woman minister. See also 119 CONG. REC. 34818, 34819, 93d Cong. 1st Sess., Oct. 23, 1973, for the first instance wherein the opening prayer was offered by a woman rabbi (who was the first female rabbi in the United States).

§ 7.9 The Chaplain of the House is entitled, by Senate rule, to the privileges of the Senate floor during sessions of that body. 117 CONG. REC. 34596, 92d Cong. 1st Sess., Oct. 4, 1971.

§ 7.10 Pursuant to 2 USC § 75a-1(a), the Speaker announced the appointment of an Acting Clerk to exercise temporarily the duties of that office. 121 CONG. REC. 36901, 94th Cong. 1st Sess., Nov. 17, 1975. Following resignation of the Sergeant at Arms, the Speaker appointed an Acting Sergeant at Arms pursuant to this same authority. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 28, 1980.

§ 7.11 The House agreed to a privileged resolution offered by the Chairman of the Democratic Caucus electing the Acting Clerk of the House to fill the vacancy caused by the resignation of the former Clerk. 121 CONG. REC. 41324, 94th Cong. 1st Sess., Dec. 17, 1975 [H. Res. 936].

§ 7.12 Pursuant to 2 USC § 75a-1(a), the Speaker appointed temporarily as Acting Doorkeeper the Democratic Caucus nominee

for that office for the 94th Congress to fill a vacancy caused by the resignation of the Doorkeeper. 120 CONG. REC. 41855, 93d Cong. 2d Sess., Dec. 20, 1974.

§ 7.13 The Parliamentarian of the House is appointed by the Speaker for an indefinite period. The Speaker announces to the House such an appointment where a vacancy is created by death or resignation. 123 CONG. REC. 11415, 95th Cong. 1st Sess., Apr. 20, 1977 [H. Res. 502]. In 1977, provisions were enacted: (1) establishing in the House an Office of the Parliamentarian to be managed, supervised, and administered by a nonpartisan Parliamentarian to be appointed by the Speaker; (2) authorizing the appointment of attorneys and other employees as necessary; (3) authorizing the appointment of one of said attorneys as Deputy Parliamentarian; (4) authorizing a maximum per annum gross rates of compensation for the Parliamentarian and members of his staff; (5) and authorizing such expenditures as may be necessary. 2 USC §§ 287-287d.

§ 7.14 By unanimous consent, the Senate considered and agreed to a resolution designating Dr. Floyd M. Riddick, Parliamentarian of the Senate, as Parliamentarian Emeritus effective upon *sine die* adjournment. 120 CONG. REC. 38418, 38419, 93d Cong. 2d Sess., Dec. 5, 1974 [S. Res. 443].

§ 7.15 A resolution was called up by the Majority Leader and considered by unanimous consent, amending Rule XXIV clause 1, to transfer from the Speaker to the Clerk of the House jurisdiction over the appointment, removal, and functions of the official reporters of the House, subject to ultimate control by the Speaker. 124 CONG. REC. 431, 95th Cong. 2d Sess., Jan. 23, 1978 [H. Res. 959].

§ 8. Administering the Oath

§ 8.1 The Speaker administers the oath of office to an elected officer of the House. 118 CONG. REC. 8718, 92d Cong. 2d Sess., Sept. 25, 1972; 121 CONG. REC. 41324, 94th Cong. 1st Sess., Dec. 17, 1975 [H. Res. 936, electing the Clerk of the House].

§ 8.2 *Note:* The Speaker administered the oath of office to the Postmaster-elect, although his election was not effective until a future date (on which day the House would not be in session). See 118 CONG. REC. 22387, 92d Cong. 2d Sess., June 26, 1972.

§ 8.3 The Speaker administers the oath of office to a temporarily-appointed officer of the House. 118 CONG. REC. 23665, 92d Cong. 2d Sess., June 30, 1972. See also 121 CONG. REC. 36901, 94th Cong. 1st Sess., Nov. 17, 1975, in which an individual appointed by the Speaker to act as Clerk of the House presented himself at the bar of the House to take the oath.

§ 8.4 *Note:* On one occasion, a person designated by the Speaker to act as an officer of the House did not appear at the bar to take the oath but subscribed to the same in writing when he accepted the appointment. 112 CONG. REC. 5712, 89th Cong. 2d Sess., Mar. 14, 1966.

§ 9. Designation of Alternates

§ 9.1 The Clerk may designate one of his employees to perform the duties of his office during his absence. The communication from the Clerk designating an employee as Acting Clerk is laid before the House by the Speaker. 111 CONG. REC. 2759, 89th Cong. 1st Sess., Feb. 16, 1965.

§ 9.2 Pursuant to Rule III clause 4, the Clerk may designate certain employees in his office to act during his temporary absence or disability "during the ..... Congress or until revoked. . . ." 117 CONG. REC. 973, 92d Cong. 1st Sess., Jan. 29, 1971.

§ 9.3 A designation by the Clerk authorizing an official and an alternate in his office to sign

documents and perform the duties of the office during his absence may provide that such authorization is to remain in effect until revoked. 115 CONG. REC. 32076, 91st Cong. 1st Sess., Oct. 29, 1969. *Note:* The Clerk intended to travel to Japan and other countries on an inspection trip with the Committee on House Administration to study computer design and applications. Since the length of this trip was uncertain at the time of his departure, and since other such inspection trips and future absences from Washington were anticipated, he made this authorization "open ended" so it would not have to be renewed for each future trip.

§ 9.4 The Speaker laid before the House a communication from the Clerk, designating officials in his office to act in his absence except with respect to functions performed by the Clerk pursuant to statute. 123 CONG. REC. 74, 95th Cong. 1st Sess., Jan. 4, 1977 [see Rule III clause 4].

D. EMPLOYEES

§ 10. In General; Creating Positions

§ 10.1 The employment of personnel for brief periods places an undue strain on the accounting procedures of the House; and it is the announced policy of the Committee on House Administration to discourage the temporary employment of personnel for periods of less than a month. 112 CONG. REC. 27653, 89th Cong. 2d Sess., Oct. 19, 1966.

§ 10.2 The position of Messenger in the office of the Speaker and the position of Clerk-Messenger in the office of the Parliamentarian were created by resolution. 108 CONG. REC. 6707, 87th Cong. 2d Sess., Apr. 16, 1962.

§ 10.3 The position of Assistant Superintendent of the House Periodical Press Gallery was created by resolution. 106 CONG. REC. 1323, 86th Cong. 2d Sess., Jan. 26, 1960.

§ 10.4 A new position, special assistant superintendent of the House Press Gallery, was created by resolution. 106 CONG. REC. 408, 86th Cong. 2d Sess., Jan. 13, 1960.

§ 10.5 Additional clerk-hire for former Speakers of the House was provided for by resolution. 105 CONG. REC. 559, 86th Cong. 1st Sess., Jan. 12, 1959.

§ 10.6 By resolution, the House provided for an additional clerk-hire allowance for the office of the majority leader and an additional position in each of the following offices: the minority leader, the majority whip and the minority whip. 112 CONG. REC. 1125, 89th Cong. 2d Sess., Jan. 26, 1966 [H. Res. 690, authorizing additional clerical help, was offered by the Speaker].

§ 10.7 The appointment of the first Director of the Congressional Budget Office, made jointly by the Speaker and the President pro tempore of the Senate, was announced to the House. 121 CONG. REC. 4151, 94th Cong. 1st Sess., Feb. 25, 1975.

§ 10.8 Pursuant to § 205(d) of House Resolution 988 of the 93d Congress, (enacted into permanent law by Pub. L. No. 93-554), the Speaker appointed the first Law Revision Counsel of the House. 121 CONG. REC. 4151, 94th Cong. 1st Sess., Feb. 25, 1975.

§ 11. Minority Employees

§ 11.1 The minority employees of the House are designated by and have their compensations established by House resolution. 115 CONG. REC. 35, 91st Cong. 1st Sess., Jan. 3, 1969; 119 CONG. REC. 27, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 7].

§ 11.2 The designation of a minority employee, at a specified annual salary, was provided for by resolution. 107 CONG. REC. 1682, 87th Cong. 1st Sess., Feb. 2, 1961; 108 CONG. REC. 7073, 87th Cong. 2d Sess., Apr. 19, 1962; 109 CONG. REC. 11457, 88th Cong. 1st Sess., June 25, 1963; 112 CONG. REC. 28514, 89th Cong. 2d Sess., Oct. 21, 1966.

§ 11.3 Position titles for the minority employees of the House and adjustments in their gross compensation are provided for by resolution. 115 CONG. REC. 16196, 91st Cong. 1st Sess., June 17, 1969. *Note:* This resolution was not called up as privileged but was presented by unanimous consent, and the Record was subsequently corrected to reflect this fact.

§ 11.4 Resolutions designating minority employees are ordinarily considered by unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 6]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 8, 1979 [H. Res. 101]; and 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 19, 1979. However, in one instance, a resolution designating a minority employee to fill a vacancy caused by the resignation of a floor assistant to the minority was called up from the floor as privileged. 119 CONG. REC. 42921, 93d Cong. 1st Sess., Dec. 20, 1973 [H. Res. 756].

§ 11.5 A letter of resignation of a minority employee was laid before the House by the Speaker. 107 CONG. REC. 93, 87th Cong. 1st Sess., Jan. 4, 1961. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 19, 1979. But where the letter of resignation of a minority employee of the 95th Congress was received prior to his being "named" as an employee in the 96th Congress, his letter was merely inserted in the *Congressional Record* and not laid down and accepted. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979.

§ 11.6 By unanimous consent, the House considered a resolution offered by the Minority Whip establishing the rates of pay of the six "minority employees" at level IV of the Executive Schedule unless set at a lower rate by the Minority Leader; appointing an employee to fill one of those positions; and "holding harmless" certain such employees who received overpayments in the preceding Congress. 123 CONG. REC. 1724, 95th Cong. 1st Sess., Jan. 19, 1977 [H. Res. 119].

E. COMPENSATION; SALARIES

§ 12. Of House Officers

§ 12.1 A resolution increasing the salary of an officer of the House, providing for its payment from the contingent fund, is reported from the Committee on House Administration as privileged under clause 23 Rule XI. 112 CONG. REC. 22020, 89th Cong. 2d Sess., Sept. 8, 1966 [H. Res. 909, increasing the compensation of the Doorkeeper of the House to equal that of the Clerk and the Sergeant at Arms].

§ 12.2 A resolution establishing the salary level for the Clerk, Sergeant at Arms, Doorkeeper and Chief of Staff of the Joint Committee on Internal Revenue Taxation at the equivalent of level IV of the Executive Schedule, effective on the date of the first Executive Schedule adjustment and payable out of the contingent fund of the House, was reported as not privileged by the Committee on House Administration and was called up by unanimous consent. 118 CONG. REC. 33744, 92d Cong. 2d Sess., Oct. 4, 1972. *Note:* Since the salaries of the officials named in this resolution are presently fixed by law, this resolution would have the effect of superseding law. The only claim to privilege is based on association with the contingent fund, which, in any event, would not be touched until the next Congress, when this resolution, having been enacted into permanent law, would become effective.

§ 12.3 The salary specified in a resolution may be based on the tenure of the incumbent of the office. 107 CONG. REC. 1682, 87th Cong. 1st Sess., Feb. 2, 1961.

§ 12.4 By unanimous consent, the House considered and then passed a resolution establishing the salary of the Chaplain at level IV of the Executive Schedule. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979.

§ 12.5 The House passed, under suspension of the rules, a Senate bill relating to Civil Service annuity benefits for widows and widowers of congressional employees with an amendment increasing the base for computation of the annuities of the Speaker and other Members in leadership positions. 120 CONG. REC. 7206, 7207, 93d Cong. 2d Sess., Mar. 19, 1974 [S. 2174, changes in the definitions of widow and widower of congressional employees or Members under the Civil Service Retirement System].

§ 13. Of House Employees

§ 13.1 Changes in the House Employees Wage Schedule are sometimes announced by the Chairman of the Committee on House Administration. 112 CONG. REC. 1399, 89th Cong. 2d Sess., Jan. 27, 1966.

§ 13.2 The Speaker laid before the House his directive implementing the salary comparability policy, established by the Federal Salary Act of 1967, for House officers and employees. 114 CONG. REC. 16717, 90th Cong. 2d Sess., June 11, 1968.

§ 13.3 A resolution fixing the salaries of certain House employees and providing for their payment from the contingent fund is reported and called up as privileged. 115 CONG. REC. 22197, 91st Cong. 1st Sess., Aug. 5, 1969 [H. Res. 502, providing gross rates of pay for certain House employees, was subsequently withdrawn from consideration at the request of the minority leader].

§ 13.4 A resolution providing for payment from the contingent fund of salary adjustments for certain House employees was reported and called up as privileged by the Committee on House Administration. 118 CONG. REC. 1531, 92d Cong. 2d Sess., Jan. 27, 1972 [H. Res. 741, providing pay comparability adjustments for certain House employees].

§ 13.5 By resolution the House has authorized the Clerk and Sergeant at Arms of the House to transfer funds from the balances available to them in several accounts under their administrative control to meet Members' and employee payrolls pending enactment of an appropriation bill carrying funds for that purpose. 115 CONG. REC. 14165-67, 91st Cong. 1st Sess., May 28, 1969. *Note:* H. Res. 425 was not a privileged resolution under Rule XI clause 23, since it did not involve the contingent fund of the House.

§ 13.6 Increases in the salary allowance for personnel in the office of the Speaker, payment to be made from the contingent fund, is provided for by resolution. 108 CONG. REC. 8, 87th Cong. 2d Sess., Jan. 10, 1962.

§ 13.7 A resolution from the Committee on House Administration providing for payment from the contingent fund of compensation of employees in the Speaker's office was reported and called up as privileged. 117 CONG. REC. 26652, 92d Cong. 1st Sess., July 22, 1971 [H. Res. 533].

§ 13.8 A resolution from the Committee on House Administration relating to the compensation of the Clerks to the Official Reporters of Debates is reported and called up as privileged. 116 CONG. REC. 39341, 91st Cong. 2d Sess., Dec. 1, 1970 [H. Res. 1241].

§ 13.9 The House by resolution raised the gross salary of administrative assistants to the Speaker, majority and minority leaders, majority and minority whips, and two other Members, to the maximum amount permissible

under the salary schedule in effect for the legislative branch. 111 CONG. REC. 4405, 89th Cong. 1st Sess., Mar. 9, 1965. *Note:* When the positions of administrative assistant to the various Members listed in the resolution were created, the salary assigned was the maximum basic salary permissible. Under the Federal Employees Pay Act of 1964 (Pub. L. No. 88-426), the maximum staff salary authorized was equated to the highest GS rating in the Civil Service.

§ 13.10 The House by resolution permitted the salaries of administrative assistants to House leaders to be increased to the maximum amount authorized under Executive Level 5 of the Federal Civil Service. 114 CONG. REC. 24, 90th Cong. 2d Sess., Jan. 15, 1968.

§ 13.11 The Office of the Legislative Counsel of the House was established by Pub. L. No. 91-510, and the salaries of the counsel and employees are determined as set forth therein. See 2 USC 281 et seq.

§ 13.12 The House by resolution increased the compensation of certain House employees in the press galleries and the office of the Official Reporters of Debates. 112 CONG. REC. 27647, 89th Cong. 2d Sess., Oct. 19, 1966.

§ 13.13 A resolution providing for payment from the contingent fund of overtime compensation for employees of the Publications Distribution Service (Folding Room) is reported and called up as privileged by the Committee on House Administration. 112 CONG. REC. 5993, 89th Cong. 2d Sess., Mar. 16, 1966 [H. Res. 776]; 118 CONG. REC. 6627, 92d Cong. 2d Sess., Mar. 2, 1972 [H. Res. 835].

§ 13.14 The House suspended the rules and adopted a resolution authorizing the Clerk and the Sergeant at Arms to enter into agreements with the states for the withholding of state taxes, permitting employees to request that their state taxes be withheld by the Clerk or Sergeant at Arms. 121 CONG. REC. 34915, 94th Cong. 1st Sess., Nov. 4, 1975 [H. Res. 732].

§ 13.15 The House passed, under suspension of the rules, a Senate bill relating to Civil Service annuity benefits for widows and widowers of congressional employees. 120 CONG. REC. 7206, 7207, 93d Cong. 2d Sess., Mar. 19, 1974 [S. 2174, changing the definitions of widow and widower under the Civil Service Retirement System. The measure became public law; see Pub. L. No. 93-260].

§ 13.16 The House rejected a motion to suspend the rules and pass a bill reported from the Committee on House Administration to provide that the incumbent Librarian of Congress be deemed a congressional employee for Civil Service retirement. 120 CONG. REC. 8941-43, 93d Cong. 2d Sess., Apr. 1, 1974 [H.R. 13515].

Chapter 7

The Members

A. GENERALLY

§ 1. In General; Delegates and Resident Commissioner

§ 2. Leaves of Absence

§ 3. Requests for Leave

B. COMPENSATION AND ALLOWANCES

§ 4. In General; Franking

§ 5. Personnel, Clerk-hire, and Related Allowances

§ 6. — Orders of the Committee on House Administration

A. GENERALLY

§ 1. In General; Delegates and Resident Commissioner

§ 1.1 The 93d Congress adopted the rules in existence at the close of the 92d Congress with an amendment of clause 2 Rule XII providing that all Delegates to the House shall be elected to standing committees in the same manner as Members and shall possess the same powers and privileges on such committees as Members. 119 CONG. REC. 17-27, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 6, adopting the rules of the House for the 93d Congress].

§ 1.2 While Delegates in the House have the same powers and privileges on standing House committees as Members pursuant to clause 2 Rule X, the Speaker is without authority under that rule to appoint Delegates to conference committees. 119 CONG. REC. 30144, 93d Cong. 1st Sess., Sept. 18, 1973 [S. 1141].

§ 1.3 By privileged resolution the House elected the Delegate from the District of Columbia to the Committee on the District of Columbia. This was done under clause 2 of Rule XII, which provides that the Delegate from the District of Columbia shall be elected to serve as a member of that committee. 117 CONG. REC. 11151, 92d Cong. 1st Sess., Apr. 21, 1971 [H. Res. 398].

§ 1.4 By resolution the Senate provided for a drawing to determine the length of service of new Senators from Alaska. 105 CONG. REC. 7, 86th Cong. 1st Sess., Jan. 7, 1959.

§ 2. Leaves of Absence

§ 2.1 A Member obtained unanimous consent that his salary be reduced for three days on which he was not in attendance at sessions of the House. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 24, 1979. The House may also grant a leave of absence to a Member without pay. 117 CONG. REC. 32430, 92d Cong. 1st Sess., Sept. 20, 1971, where a Member requested such a leave to campaign for political office. *Note:* Pursuant to 2 USC § 39, deductions may be taken from a Member's salary for days on which the Member is absent without leave; such deductions are made only at the request of the Member involved.

§ 2.2 By unanimous consent, a Member was granted a leave of absence for maternity reasons. 119 CONG. REC. 35653, 93d Cong. 1st Sess., Nov. 1, 1973.

§ 3. Requests for Leave

§ 3.1 A Member has been permitted to submit from the floor an oral unanimous-consent request for a leave of absence instead of filing a signed written request with the Speaker. 118 CONG. REC. 13614, 92d Cong. 2d Sess., Apr. 20, 1972.

§ 3.2 A Member requested unanimous consent that he and several colleagues be granted leaves of absence to attend a celebration in Genoa, Italy, commemorating the establishment of Columbus Day as a national holiday in the United States. 117 CONG. REC. 34267, 92d Cong. 1st Sess., Sept. 30, 1971.

B. COMPENSATION AND ALLOWANCES

§ 4. In General; Franking

§ 4.1 In the 87th Congress, the House receded from disagreement and concurred in a Senate amendment prohibiting use of funds for delivery of congressional franked mail addressed to "Occupant." 108 CONG. REC.

19945, 87th Cong. 2d Sess., Sept. 19, 1962 [H.R. 11151, legislative appropriation bill, fiscal 1963]. The House adopted a resolution amending the rules of the House by (*inter alia*) adding a new Rule XLVI imposing certain limitations on the use of the frank for postal patron and mass mailings. 123 CONG. REC. 5933–42, 95th Cong. 1st Sess., Mar. 2, 1977 [H. Res. 287].

§ 4.2 A resolution from the Committee on House Administration, authorizing that committee to adjust certain allowances for Members and committees and making the contingent fund available for that purpose, is reported and called up as privileged. 117 CONG. REC. 26445, 26450, 92d Cong. 1st Sess., July 21, 1971 [H. Res. 457].

§ 4.3 The House suspended the rules and adopted a resolution authorizing the Clerk and the Sergeant at Arms to enter into agreements with the states for the withholding of state taxes, permitting Members to request that their state taxes be withheld by the Clerk or Sergeant at Arms. 121 CONG. REC. 34915, 94th Cong. 1st Sess., Nov. 4, 1975 [H. Res. 732].

§ 4.4 The Assistant Secretary of State for Congressional Relations has advised Members and legislative staff to make travel arrangements to the People's Republic of China through the Department of State. 118 CONG. REC. 17273, 92d Cong. 2d Sess., May 15, 1972.

§ 4.5 A bill reported from the House Administration Committee amending a legislative appropriation act to provide travel reimbursement for Members from the contingent fund was reported and called up as not privileged. 109 CONG. REC. 11498, 11528, 88th Cong. 1st Sess., June 25, 1963 [H.R. 4946]. The House adopted a resolution amending Rule XI clause 2(n) to prohibit reimbursement for committee travel expenses in excess of the federal maximum per diem rate or actual expenses, whichever is less, and amending Rule XI clause 5 and Rule I clause 8 to prohibit use of committee or contingent funds for travel for lame-duck Members. 123 CONG. REC. 5933–42, 95th Cong. 1st Sess., Mar. 2, 1977 [H. Res. 287].

§ 4.6 In 1975, Rule I was amended by adding a new clause 8 authorizing the Speaker to permit travel on behalf of the House. 121 CONG. REC. 20, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5, adopting rules for the 94th Congress].

§ 4.7 A Member filed a civil action in a Federal District Court against the Sergeant at Arms seeking declaratory and injunctive relief to prevent the execution of Members' salary adjustments and to test the validity of the Federal Salary Act of 1967 and of the Executive Salary Cost-of-Living Adjustment Act of 1975 as they related to Members' compensation. 122 CONG. REC. 14926–34, 94th Cong. 2d Sess., May 20, 1976. *Note:* In the suit in question, Pressler v Simon (Civ. Action No. 76-0782) in the U.S. District Court for the District of Columbia, Representative Larry Pressler was challenging the constitutionality of the one-House veto provisions of the Federal Salary Act. On October 12, 1976, the court dismissed the Pressler suit on the merits, holding that the Postal Revenue and Salary Act of 1967 and the Executive Salary Cost-of-Living Adjustment Act of 1975, which provide procedures to increase compensation rates for Members of Congress, did not violate U.S. Constitution, Article I, section 6, clause 1, which provides that Members shall receive compensation to be ascertained by law.

§ 5. Personnel, Clerk-hire, and Related Allowances

§ 5.1 The House adopted a resolution under suspension of the rules increasing the number of clerks to which a Member is entitled and establishing a minimum annual salary for all clerks to Members. 116 CONG. REC. 40186, 91st Cong. 2d Sess., Dec. 7, 1970 [H. Res.

1264]. *Note:* Under existing law, clerk-hire was limited to a maximum of 11 employees if the constituency was less than 500,000, and was not to exceed 12 employees if the constituency was over 500,000. H. Res. 1264 was intended to increase this limitation to 14 and 15 clerks respectively.

§ 5.2 The House by resolution raised the Members' clerk-hire allowance by a base amount of $2,500 and permitted the employment in each Member's office of another clerk in addition to the number otherwise provided by law. 115 CONG. REC. 17289, 91st Cong. 1st Sess., June 25, 1969 [H. Res. 357].

§ 5.3 By resolution the House provided each Member and the Resident Commissioner an additional $7,000 basic clerk-hire allowance and permitted him to employ an additional clerk. 112 CONG. REC. 11654, 89th Cong. 2d Sess., May 26, 1966 [H. Res. 855].

§ 5.4 The House by resolution authorized each Member and the Resident Commissioner to employ a "summer Congressional Intern" for two and one-half months each summer and permitted payment from the contingent fund of amounts required to carry out the resolution. 111 CONG. REC. 13799, 89th Cong. 1st Sess., June 16, 1965 [H. Res. 416].

§ 5.5 The House has adopted a resolution continuing the effectiveness of a resolution of the previous Congress authorizing an additional amount per annum basic clerk-hire for Members. 111 CONG. REC. 20, 89th Cong. 1st Sess., Jan. 4, 1965.

§ 5.6 A resolution authorizing an extra clerk-hire allowance for each Member, payable from the contingent fund, is a privileged resolution under clause 23 Rule XI, and may be called up at any time after it is reported by the Committee on House Administration. 112 CONG. REC. 11654, 89th Cong. 2d Sess., May 26, 1966 [H. Res. 855].

§ 5.7 By unanimous consent, the House considered and agreed to a resolution offered from the floor which: (1) paid $42,500 from the contingent fund to the widow of a Representative-elect as a gratuity; (2) continued certain employees on the clerk-hire rolls pending a special election to fill the vacancy; (3) authorized the Clerk to fill two vacancies and to adjust salaries of all employees in that office; and (4) provided for payment from the contingent fund for necessary office expenses and employee travel, until the vacancy was filled. 119 CONG. REC. 27, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 9, authorizing expenditures in connection with the widow's gratuity and office expenses of Representative-elect Begich (Alaska)].

§ 5.8 The House, by unanimous consent, considered and agreed to a resolution offered from the floor which: (1) paid $42,500 from the contingent fund to the widow of a Representative-elect as a gratuity; and (2) continued on the clerk-hire rolls, until the vacancy in the new Congress caused by his death was filled by special election, those persons employed by him at the close of the preceding Congress. 119 CONG. REC. 379, 93d Cong. 1st Sess., Jan. 6, 1973 [H. Res. 93, authorizing expenditures in connection with widow's gratuity and office expenses of Representative-elect Collins (Ill.)]. *Note:* A widow's gratuity is normally contained in an appropriation bill, but the leadership had decided to pay certain gratuities immediately from the contingent fund.

§ 6. — Orders of the Committee on House Administration

§ 6.1 From 1971 to 1976, the Committee on House Administration had been authorized by law to adjust allowances without requiring subsequent House approval. However, in 1976 the House, as an exercise of its constitutional rule-making authority, adopted a resolution ef-

fective during that Congress "stripping" that committee of some of its authority and requiring House approval of certain allowance adjustments reported therefrom. 122 CONG. REC. 21815, 94th Cong. 2d Sess., July 1, 1976 [H. Res. 1372, limiting House Administration Committee authority to fix allowances]. *Note:* House Resolution 1372 was subsequently enacted into permanent law by Public Law No. 94-440 (legislative branch appropriations, fiscal 1977), and thus continues the withdrawal of House Administration authority beyond the 94th Congress.

§ 6.2 In 1976, the House adopted a resolution withdrawing from the Committee on House Administration its authority to fix and adjust Members', officers', and committee allowances without approval of the House, except where such adjustments are required by price or cost-of-living changes. 122 CONG. REC. 21815, 94th Cong. 2d Sess., July 1, 1976 [H. Res. 1372, limiting House Administration Committee authority to fix allowances]. *Note:* The validity of allowances fixed and adjusted by the Committee on House Administration prior to this date was not affected by approval of this resolution.

§ 6.3 In 1971, the House adopted a resolution authorizing the Committee on House Administration to fix and adjust allowances for Members' clerk-hire, office space, travel and mileage, as well as allowances for postage, stationery, telephone and telegraph for Members, officers, and committees, by payment from the contingent fund and without the requirement of subsequent House approval. 117 CONG. REC. 26445, 26450, 92d Cong. 1st Sess., July 21, 1971. See H. Res. 457, subsequently incorporated into Pub. L. No. 92-184, authorizing the Committee on House Administration to pay certain allowances out of the contingent fund.

§ 6.4 In 1971, the Committee on House Administration adopted resolutions adjusting the allowance for the rental of district offices by Members, pursuant to the authority granted to that committee by the House to adjust allowances of Members and committees without further order of the House. 117 CONG. REC. 29526, 92d Cong. 1st Sess., Aug. 4, 1971; 118 CONG. REC. 1293, 92d Cong. 2d Sess., Jan. 26, 1972. See H. Res. 457, subsequently incorporated into Pub. L. No. 92-184, authorizing the Committee on House Administration to pay certain allowances out of the contingent fund.

§ 6.5 In 1971, the Chairman of the Subcommittee on Accounts of the Committee on House Administration inserted in the Record a resolution adopted by that committee, pursuant to the authority granted to that committee to adjust allowances of Members and staff without further order of the House, adjusting travel allowances from the contingent fund to permit 24 round trips to congressional districts each Congress for Members and four such round trips for Members' clerks on official business. 117 CONG. REC. 45608, 92d Cong. 1st Sess., Dec. 8, 1971. See H. Res. 457, subsequently incorporated into Pub. L. No. 92-184, authorizing the Committee on House Administration to pay certain allowances out of the contingent fund.

§ 6.6 In 1972, the Committee on House Administration adopted resolutions: (1) increasing the number of allowable district offices in federal office buildings from two to three; and (2) equalizing the number of clerks and clerk-hire allowance for all Members, pursuant to authority granted to that committee to adjust allowances of Members and committees without further order of the House. 118 CONG. REC. 6122, 92d Cong. 2d Sess., Feb. 29, 1972. See H. Res. 457, subsequently incorporated into Pub. L. No. 92-184, authorizing the Committee on House Administration to pay certain allowances out of the contingent fund.

§ 6.7 In 1972, the Chairman of the Subcommittee on Accounts, Committee on House Administration, inserted in the Record resolutions

adopted by that committee: (1) increasing from 24 to 36 the number of round trips to his congressional district for which a Member may be reimbursed during a two-year term; (2) increasing the lump-sum alternative payment; (3) increasing from four to six the number of round trips allowed clerks to each Member; and (4) increasing a Member's stationery allowance for each session, pursuant to the authority granted to that committee to adjust allowances of Members and committees without further order of the House. 118 CONG. REC. 34177, 92d Cong. 2d Sess., Oct. 5, 1972. See H. Res. 457, subsequently incorporated into Pub. L. No. 92-184, authorizing the Committee on House Administration to pay certain allowances out of the contingent fund.

§ 6.8 In 1974, the Chairman of the Subcommittee on Accounts, Committee on House Administration, inserted in the Record resolutions adopted by that committee: (1) increasing the postage stamp allowance to Members, committees, and the leadership; and (2) increasing to $6,500 the stationery allowance per session for Members, pursuant to the authority granted to that committee in House Resolution 457 (92d Cong.) enacted into permanent law by Public Law No. 92-184, to adjust allowances of Members and committees without further order of the House. 120 CONG. REC. 29407, 93d Cong. 2d Sess., Aug. 20, 1974 [Committee on House Administration Orders Nos. 13, 14].

§ 6.9 In 1974, the Chairman of the Committee on House Administration inserted in the Record the text of an order adopted by that committee establishing an expense allowance for Members for expenses incurred outside of the District of Columbia at not to exceed $500 per quarter. 120 CONG. REC. 40960, 93d Cong. 2d Sess., Dec. 18, 1974 [Committee on House Administration Order No. 15].

§ 6.10 In 1975, the Chairman of the Committee on House Administration in a special-order speech announced that pursuant to Public Law No. 92-184, that committee had adjusted the amount authorized to lease equipment used in connection with official duties, and inserted for printing a copy of the committee report. 121 CONG. REC. 34463, 94th Cong. 1st Sess., Oct. 30, 1975 [Committee on House Administration Order No. 24].

§ 6.11 In 1975, pursuant to the authority granted the Committee on House Administration by House Resolution 457, 92d Congress, an order was issued by that committee increasing the number of clerks authorized for Members, Delegates, and the Resident Commissioner. 121 CONG. REC. 5556, 94th Cong. 1st Sess., Mar. 6, 1975 [Committee on House Administration Order No. 16].

§ 6.12 In 1975, the Chairman of the Committee on House Administration inserted in the Record resolutions adopted by that committee: (1) increasing to 26 per year the number of round trips to his congressional district for which a Member may be reimbursed from the contingent fund, increasing to $2,250 per year the lump-sum alternate payment, and increasing to six per year the number of round trips allowed clerks to each Member; (2) increasing the annual clerk-hire allowance by $22,500; (3) providing a new allowance for constituent communications reports; and (4) increasing to 125,000 units for each session the allowance for telephone and telegraph communications. Such adjustments were made pursuant to the statutory authority granted to that committee in House Resolution 457 (Pub. L. No. 92-184, 92d Cong.) to adjust allowances of Members and committees without further order of the House. 121 CONG. REC. 15483, 94th Cong. 1st Sess., May 20, 1975 [Committee on House Administration Orders Nos. 19-22].

§ 6.13 In 1976, a member of the Committee on House Administration inserted in the Record that committee's orders relating to Members', officers', and committee allowances promulgated pursuant to House Resolution 457 (92d Cong., and enacted into permanent

law by Pub. L. No. 92-184, authorizing that committee to issue allowance regulations without further action by the House), on the day prior to adoption by the House of a resolution (H. Res. 1372) "stripping" the Committee on House Administration of its authority (with certain exceptions) to finally promulgate allowance regulations. 122 CONG. REC. 21623, 21624, 94th Cong. 2d Sess., June 30, 1976.

§ 6.14 In 1977, the Chairman of the Committee on House Administration inserted in the *Congressional Record* the text of an order adopted by that committee increasing the maximum amount (to Level V of the Executive Schedule) payable to an employee from a Member's clerk-hire allowance, pursuant to the authority granted that committee by Public Law No. 92-184, as modified by Public Law No. 94-440. 123 CONG. REC. 8227, 95th Cong. 1st Sess., Mar. 21, 1977. *Note:* As indicated elsewhere (§§ 6.1, 6.2, supra) in this chapter, Public Law No. 94-440 stripped the Committee on House Administration of the power contained in House Resolution 457 of the 92d Congress to fix or adjust allowances, but exempted from that prohibition action by the committee to fix or adjust allowances where made necessary by changes in the price of materials, services or space, or technological change or improvement in mechanical equipment, or increases in the cost of living resulting under the Federal Pay Comparability Act. The Committee on House Administration adopted the order here in question on the assumption that Public Law No. 94-440 had removed the power of the committee to sua sponte fix or adjust the total amounts of the allowances, with certain exceptions, but did not remove the implied power under House Resolution 457 to adjust amounts within allowances.

Chapter 8

Elections

§ 1. In General; Certificates of Election
§ 2. Filling Vacancies
§ 3. Campaign Practices

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§ 1. In General; Certificates of Election

§ 1.1 When the Clerk receives from a state Governor a certificate of the election of a Representative-elect from that state, he notifies the Speaker who lays the matter before the House. 105 CONG. REC. 16799, 86th Cong. 1st Sess., Aug. 24, 1959.

§ 1.2 By unanimous consent, the Speaker may be authorized to administer the oath of office to a Member-elect whose certificate of election has not been received. 117 CONG. REC. 17231, 92d Cong. 1st Sess., May 27, 1971. *Note:* The unanimous-consent request to waive the certificate of election is normally made by someone in a leadership position from the same party as the Member-elect.

§ 1.3 The Speaker lays before the House a letter from the Clerk, notifying him of the receipt of a communication from a state official advising of the results of a special election. 112 CONG. REC. 7219, 89th Cong. 2d Sess., Mar. 30, 1966, where a Member-elect was permitted to take the oath although her certificate of election had not arrived.

§ 1.4 The Clerk notifies the Speaker when he has received a certificate of election to fill a vacancy in the House. 106 CONG. REC. 6, 86th Cong. 2d Sess., Jan. 6, 1960; 108 CONG. REC. 7, 87th Cong. 2d Sess., Jan. 10, 1962; 112 CONG. REC. 6, 89th Cong. 2d Sess., Jan. 10, 1966. Such certificates are laid before the House by the Speaker. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979.

§ 1.5 The Speaker laid before the House communications from the Clerk transmitting telegrams from a board of elections submitting final returns in two special elections to fill vacancies in the House. 124 CONG. REC. 3852, 95th Cong. 2d Sess., Feb. 21, 1978.

§ 2. Filling Vacancies

§ 2.1 The Speaker lays before the House a communication from a Governor stating that according to unofficial returns, a named individual has been elected to the House to fill the unexpired term of a deceased Member. 109 CONG. REC. 20612, 88th Cong. 1st Sess., Oct. 30, 1963.

§ 2.2 Pursuant to its authority under Art. I, § 5 of the U.S. Constitution to judge the qualifications of its Members, the House may presume the death of a missing Member-elect and declare that seat vacant, in order that the Governor of that state might call a special election to fill the vacancy as required by Art. I, § 2. 119 CONG. REC. 15, 16, 93d Cong. 1st Sess., Jan. 3, 1973, where the House agreed to a privileged resolution, offered by the Chairman of the Democratic Caucus, declaring vacant the seat of a Member-elect (the majority leader of the 92d Congress), based upon the Clerk's ascertainment that he had been aboard a missing aircraft with another Member-elect whose presumptive death had been certified and whose seat had been declared vacant by state authority.

§ 2.3 The authority of a Senator appointed to fill a vacancy, pending the resolution of a contested election, expires on the administration of the oath of office to the Senator-elect. 121 CONG. REC. 29256, 94th Cong. 1st Sess., Sept. 18, 1975.

§ 3. Campaign Practices

§ 3.1 The House agreed to a privileged resolution, reported from the Committee on Rules, establishing a select committee to investigate and report on campaign expenditures and practices by candidates for the House, and authorizing the select committee and the Clerk of the House to jointly investigate alleged violations of the Federal Election Campaign Act

of 1971 (utilizing the committee's subpena power). 118 CONG. REC. 5717, 92d Cong. 2d Sess., Feb. 28, 1972 [H. Res. 819]; 119 CONG. REC. 1058, 93d Cong. 1st Sess., Jan. 15, 1973; 119 CONG. REC. 7957-59, 93d Cong. 1st Sess., Mar. 15, 1973.

§ 3.2 *Note:* On August 21, 1974, the House agreed to a privileged resolution reported from the Committee on Rules authorizing the Committee on House Administration to conduct investigations within its jurisdiction (including elections of Members and "Hatch Act" violations) and authorizing that committee to sit during adjournment periods and to issue subpenas. 120 CONG. REC. 29653, 29654, 93d Cong. 2d Sess., Aug. 21, 1974.

§ 3.3 In election contests involving campaign practices, the House may by resolution authorize the Speaker to administer the oath to a Member-elect, but refer the question of his final right to a seat to the Committee on House Administration. 113 CONG. REC. 27, 90th Cong. 1st Sess., Jan. 10, 1967. *Note:* Representative-elect Blackburn, of Georgia, was the apparent winner in the Fourth District by some 400 votes. The election had been investigated by the Select Committee to Investigate Campaign Expenditures, appointed in the 89th Congress, and that committee had recommended that a resolution be adopted by the House reserving decision on the final right to the seat. See H. Rept. No. 2348, 89th Cong., Jan. 3, 1966.

§ 3.4 A Member, who had been defeated in a primary election, inserted in the Record an opinion of the Supreme Court of Colorado holding that that court lacked jursidiction to pass upon that Member's allegations of election irregularities and that the House had exclusive jurisdiction to decide such questions and to declare the rightful nominee. 116 CONG. REC. 33320, 91st Cong. 2d Sess., Sept. 23, 1970. *Note:* The Committee on House Administration found that while there were irregularities in the primary election, there was no way of ascertaining (short of a new election or throwing out all the ballots from precincts where irregularities occurred) whether they would have changed the result of the primary election.

§ 3.5 The House authorized the Committee on House Administration to conduct investigations involving election contests and Hatch Act violations, matters within the jurisdiction of that committee under Rule XI clause 9, in lieu of establishing a Special Committee to Investigate Campaign Expenditures as had been the practice in prior Congresses. 120 CONG. REC. 29653, 29654, 93d Cong. 2d Sess., Aug. 21, 1974 [H. Res. 737].

§ 3.6 A Member whose right to his seat was being investigated by the Committee on House Administration because of alleged vote fraud in the primary election resigned from the House prior to the conclusion of the investigation. 123 CONG. REC. 13391, 95th Cong. 1st Sess., May 4, 1977. *Note:* The Committee on House Administration undertook an investigation of Mr. Richard Tonry's right to his seat, not pursuant to the election contest statutes, but pursuant to a petition by his opponent in the Democratic primary election, who alleged vote fraud in the primary. The petitioner was not an eligible contestant under the statute. The resignation ended the investigation since the committee then had no further jurisdiction in the matter. On July 1, 1977, the government filed a bill of information charging Mr. Tonry with one count of conspiracy, one count of accepting political contributions in violation of the Federal Election Campaign Act, and two counts of promising benefits for political contributions. Mr. Tonry pled guilty that day to all four counts. Criminal Action No. 77-260 (E.D.La.).

Chapter 9

Election Contests and Disputes

§ 1. In General; Initiating the Contest
§ 2. Resolutions and Reports
§ 3. Consideration and Debate
§ 4. Disposition of Contest

§ 1. In General; Initiating the Contest

§ 1.1 *Note:* Contests for seats in the House of Representatives are governed by the Federal Contested Elections Act. This statute (2 USC §§ 381-396) sets forth the procedure by which a defeated candidate may have his claim to a seat adjudicated by the House. The act provides for the filing of notice of contest and other proceedings, for the taking of testimony of witnesses, and for a hearing on the dispositions and other papers that have been filed with the Clerk. The contest is heard by the Committee on House Administration. Acting upon committee reports, the House, by privileged resolution, then disposes of the case.

§ 1.2 An unsuccessful candidate in a primary election, whose name was not on the ballot in the general election, lacked the requisite standing to be a contestant under the election contest statute, and was permitted to initiate a contest by a petition [ultimately dismissed] asking that the House declare the election invalid and the seat vacant. 113 CONG. REC. 18290, 90th Cong. 1st Sess., July 11, 1967 [contested election case of Wyman Lowe v Fletcher Thompson, H. Res. 541]. *Note:* Mr. Lowe was not a "contestant" within the meaning of Rule XXXII (relating to admission to the floor) since he was not a candidate in the general election and was not asking to be seated as a Member of the House. Mr. Lowe alleged irregularities in the selection of the Democratic candidate for the general election and sought to have the election declared invalid on these grounds. In 1977, a privileged resolution was reported from the Committee on House Administration, dismissing an election contest, where the contestant had been an unsuccessful candidate in a special election to fill a vacancy but not a candidate in the runoff election. 123 CONG. REC. 35408, 95th Cong. 1st Sess., Oct. 27, 1977 [H. Res. 825, dismissing the contest of Lowe v Fowler].

§ 1.3 The Speaker lays before the House communications from the Clerk relative to contested election cases. 106 CONG. REC. 17029, 86th Cong. 2d Sess., Aug. 22, 1960; 109 CONG. REC. 1940, 88th Cong. 1st Sess., Feb. 7, 1963.

§ 1.4 Letters from the Clerk notifying the House of matters relative to election contests are laid before the House and referred to the Committee on House Administration. 106 CONG. REC. 17029, 86th Cong. 2d Sess., Aug. 22, 1960.

§ 1.5 A letter from the Clerk transmitting a motion to dismiss an election contest brought against a House Member is referred to the Committee on House Administration. 111 CONG. REC. 21081, 89th Cong. 1st Sess., Aug. 19, 1965.

§ 1.6 The Speaker laid before the House a letter from the Clerk, advising of the receipt of a communication from the Secretary of State, Tennessee, and stating that there was no dispute regarding a special election there to fill a vacancy. 110 CONG. REC. 5730, 88th Cong. 2d Sess., Mar. 19, 1964.

§ 1.7 The Speaker laid before the House a letter from the Clerk advising that testimony in the contested Mississippi election cases had been printed and that the pertinent exhibits and papers were ready for reference to the appropriate committee. 111 CONG. REC. 18691, 89th Cong. 1st Sess., July 29, 1965.

§ 2. Resolutions and Reports

§ 2.1 Reports from the Committee on House Administration on the right of Members to their seats are privileged and are so reported to the floor. 107 CONG. REC. 10160, 87th Cong. 1st Sess., June 13, 1961; 113 CONG. REC. 15848, 90th Cong. 1st Sess., June 14, 1967. Resolutions pertaining to the right of a Member to his seat are also called up as privi-

leged. 105 CONG. REC. 18610, 86th Cong. 1st Sess., Sept. 8, 1959; 107 CONG. REC. 10377-91, 87th Cong. 1st Sess., June 14, 1961; 111 CONG. REC. 24263, 89th Cong. 1st Sess., Sept. 17, 1965.

§ 2.2 A resolution referring the question of a Member-elect's final right to a seat to the Committee on House Administration and authorizing that committee to issue subpenas was reported and called up as privileged by that committee. 118 CONG. REC. 18654, 92d Cong. 2d Sess., May 24, 1972 [H. Res. 986, authorizing the Speaker to administer the oath to William S. Conover, II to fill the vacancy caused by the death of Representative James G. Fulton, Pennsylvania]. *Note:* Mr. Conover first appeared in the House shortly after the election, but the Speaker declined to administer the oath to him at that time when it became apparent that the election result had been challenged in a state court.

§ 2.3 A resolution reported from the Committee on House Administration relating to an expenditure of money for certain election contest costs out of the contingent fund is privileged and is so called up for consideration. 107 CONG. REC. 10391, 87th Cong. 1st Sess., June 14, 1961 [H. Res. 340, providing for payment of certain amounts in connection with an investigation and recount authorized by H. Res. 1; since the recount has been ordered by the Committee on House Administration, neither party could have been reimbursed for expenses pursuant to the election contest statutes].

§ 3. Consideration and Debate

§ 3.1 A contestant in an election contest may be admitted to the floor of the House, pursuant to Rule XXXII, during the consideration of the case in the House. 111 CONG. REC. 24267, 89th Cong. 1st Sess., Sept. 17, 1965. Three of the contestants in the Mississippi election contest, having requested the privilege of the floor during the debate, were admitted, pursuant to Rule XXXII. See also Freeman v Mitchell, 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979, wherein the contestant was permitted on the floor (accompanied by the Doorkeeper) pursuant to Rule XXXII clause 1.

§ 3.2 Contestees in an election contest were permitted to be present on the floor during the consideration of the resolution disposing of the contest; and while they did not participate in debate, they were permitted to insert their remarks in the Record in explanation of their position. 111 CONG. REC. 24285, 89th Cong. 1st Sess., Sept. 17, 1965.

§ 3.3 By unanimous consent, debate on an election contest may be extended to two hours, at the conclusion of which the previous question shall be considered as ordered. 107 CONG. REC. 10371, 87th Cong. 1st Sess., June 14, 1961.

§ 3.4 The contestee in an election case, a sitting Member, voted on the resolution dismissing the contest and then withdrew his vote and was recorded as present. 111 CONG. REC. 24292, 89th Cong. 1st Sess., Sept. 17, 1965 [H. Res. 585, dismissing the five Mississippi election contests].

§ 3.5 In the 95th Congress, the Committee on House Administration created ad hoc panels, each consisting of three members, to consider several contested election contests. See, for example, 123 CONG. REC. 13953, 95th Cong. 1st Sess., May 9, 1977, where an ad hoc panel reported on the case of Saunders v Kelly.

§ 4. Disposition of Contest

§ 4.1 A resolution dismissing an election contest is reported and called up as privileged by the Committee on House Administration. 111 CONG. REC. 24263, 89th Cong. 1st Sess., Sept. 17, 1965 [H. Res. 585, dismissing the five Mis-

sissippi election contests]; 115 CONG. REC. 10040, 91st Cong. 1st Sess., Apr. 23, 1969 [H. Res. 364, dismissing an election contest brought by Wyman C. Lowe]; 117 CONG. REC. 40017, 92d Cong. 1st Sess., Nov. 9, 1971 [H. Res. 507, dismissing an election contest brought against Victor V. Veysey (Calif.), by David A. Tunno]. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 4, 1980 [H. Res. 575 and 576, dismissing the election contests against Anthony Claude Leach and Thomas Daschle].

§ 4.2 The House adopted a resolution declaring that an individual was not competent to bring a contest for a seat in the House, and dismissed the notice of contest served upon the sitting Member. 111 CONG. REC. 951-57, 89th Cong. 1st Sess., Jan. 19, 1965. The House, by resolution, dismissed the notice of contest on the ground that the individual filing the notice was not a candidate for a seat in the House and was thus not a proper party to bring a contest under the election contest statute.

§ 4.3 A resolution dismissing certain election contests and declaring the sitting Members entitled to their seats was amended by striking from the resolution the portion affirming the title of the sitting Members. 111 CONG. REC. 24290, 89th Cong. 1st Sess., Sept. 17, 1965 [H. Res. 585].

§ 4.4 The House sometimes disposes of an election contest by adopting a resolution confirming the election of a Representative, declaring him entitled to his seat. 113 CONG. REC. 18291, 90th Cong. 1st Sess., July 11, 1967 [H. Res. 542, contested election case of Mackey v Blackburn].

§ 4.5 After the contested election for the New Hampshire Senate seat had been resolved by a special election, the credentials of the Senator-elect were laid before the Senate. 121 CONG. REC. 29256, 94th Cong. 1st Sess., Sept. 18, 1975.

§ 4.6 The Senate, by resolution, authorized the payment of expenses incurred by the individuals involved in the contested election for a seat in the Senate from the State of New Hampshire. 121 CONG. REC. 39861, 94th Cong. 1st Sess., Dec. 11, 1975 [S. Res. 247].

§ 4.7 Under the contested election statute, 2 USC § 383(b), a motion to dismiss an election contest may be made prior to contestee's answer and may be based upon contestant's failure to claim a right to contestee's seat, and contestant must in such instance provide sufficient evidence to overcome the motion to dismiss. Thus, in the 95th Congress, the House adopted a privileged resolution reported from the Committee on House Administration dismissing an election contest where the committee found that contestant had not met the burden of proof requiring specific allegations and sufficient evidence to overcome a motion to dismiss. 123 CONG. REC. 13953, 95th Cong. 1st Sess., May 9, 1977 [H. Res. 525, dismissing an election contest in the case of Saunders v Kelly].

§ 4.8 Pursuant to the contested election statute, 2 USC § 383(b), the Committee on House Administration may entertain contestee's motion to dismiss an election contest prior to submission of evidence by both parties, and contestant has the burden of proving sufficient grounds to change the election result and to claim a right to contestee's seat in order to resist the motion to dismiss. 123 CONG. REC. 13954, 95th Cong. 1st Sess., May 9, 1977 [H. Res. 526, dismissing an election contest in the case of Paul v Gammage; H. Res. 527, dismissing an election contest in the case of Young v Mikva]. *Note:* In these two cases, the House, by adopting a privileged resolution reported from the Committee on House Administration dismissing an election contest, affirmed that committee's decision to impose upon contestant, at the outset of the contest and prior to the formal submission of evidence, the burden

of furnishing evidence sufficient to overcome contestee's motion to dismiss.

§ 4.9 Contestee's motion to dismiss an election contest will be granted where contestant has merely suggested the probability of error in the tabulation of votes without offering factual evidence sufficient to indicate a change in the election result. Thus, in the 95th Congress, the House adopted a privileged resolution reported from the Committee on House Administration, dismissing an election contest where contestant failed to furnish factual evidence tending to show a different election result. 123 CONG. REC. 13954, 95th Cong. 1st Sess., May 9, 1977 [H. Res. 528, dismissing the election contest of Pierce v Pursell].

§ 4.10 The mere showing that contestant received substantially more votes in a prior election for the same seat than in the contested election is insufficient proof of fraud. 123 CONG. REC. 35408, 95th Cong. 1st Sess., Oct. 27, 1977 [H. Res. 825, dismissing the contest of Lowe v Fowler].

§ 4.11 An election contest may be dismissed for failure to allege grounds which, if true, would have changed the result of the election. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979 [H. Res. 198, dismissing the election contest of Freeman v Mitchell]. Dismissal may result without full presentation of the evidence where the contestant fails to demonstrate that there is some documentable basis for such allegations. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 29, 1979 [H. Res. 189, dismissing the election contest of Perkins v Byron]. Prior to the full presentation of evidence, the contestant, to withstand a motion to dismiss, must present sufficient evidence to indicate a presumptive change in the election result. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979 [H. Res. 198, dismissing the election contest of Freeman v Mitchell]. For other precedents relative to the applicability of a motion to dismiss before the full presentation of evidence, see §§ 4.8–4.10, supra.

§ 4.12 Although the Committee on House Administration has the authority to require a recount of votes for a contested seat in the House, the committee will not order such a recount where the highest court of the state has conducted a recount and where unsubstantiated allegations by the contestant do not demonstrate that a recount would change the result of the election. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 4, 1980 [H. Res. 576, dismissing the election contest against Thomas Daschle].

§ 4.13 The House adopted a resolution dismissing an election contest where the contestee had been acquitted of charges of voter fraud in a federal criminal action and where the contestant failed to show by specific evidence that a sufficient number of votes were illegally cast (because of fraud) to change the result of the election. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 4, 1980 [H. Res. 575, dismissing the election contest against Anthony Claude Leach].

Chapter 10

Presidential Elections; Electoral College

§ 1. In General; Transmittal of Electoral Votes

§ 2. Joint Sessions

§ 3. Appointment of Tellers; Voting

§ 4. Presidential Nominations for Vice President

§ 1. In General; Transmittal of Electoral Votes

§ 1.1 "The Electors shall meet in their respective states, and vote by ballot for President and Vice-President . . .; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; [t]he President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. . . ." U.S. Const. amend. XII.

§ 1.2 A certificate ascertaining the electors appointed in a state [required by 3 USC § 6], forwarded by the Governor to the Administrator of General Services and transmitted in turn to the House, is laid before the House by the Speaker. 107 CONG. REC. 288, 87th Cong. 1st Sess., Jan. 6, 1961, where a certificate was received on the day set aside for the counting of the electoral votes; the Speaker, in order that the receipt of the certificate would appear in the Record before the proceedings of the joint session to count the electoral votes, laid the communication before the House at the beginning of the session.

§ 1.3 Where certificates of electoral votes had been received from both the Democratic and Republican slates of electors from a state, and each slate purported to be the duly appointed electors from that state, the Vice President presented the certificates, with all attached papers, in the order in which they had been received. 107 CONG. REC. 288-91, 87th Cong. 1st Sess., Jan. 6, 1961.

§ 2. Joint Sessions

§ 2.1 The two Houses do not recess for the count of the electoral vote, but remain in session and meet jointly. 107 CONG. REC. 277, 87th Cong. 1st Sess., Jan. 6, 1961; see also 119 CONG. REC. 30, 93d Cong. 1st Sess., Jan. 3, 1973, where the House agreed to a privileged concurrent resolution providing for a joint session to count the electoral votes for President and Vice President.

§ 2.2 A concurrent resolution providing for a joint session to count the electoral votes for President and Vice President is originated by the Senate. 115 CONG. REC. 36, 91st Cong. 1st Sess., Jan. 3, 1969 [S. Con. Res. 1].

§ 2.3 Where the two Houses meet to count the electoral vote, a joint session is convened pursuant to a concurrent resolution of the two Houses which incorporates by reference the provisions of 3 USC §§ 15-18; and the procedures set forth in those provisions are in effect constituted as a joint rule of the two Houses for the occasion and govern the procedures in the joint session and in both Houses in the event they divide to consider an objection. See 115 CONG. REC. 145-47, 169-72, 91st Cong. 1st Sess., Jan. 6, 1969.

§ 3. Appointment of Tellers; Voting

§ 3.1 Tellers on the part of the House to count the electoral vote are appointed by the Speaker. 107 CONG. REC. 26, 87th Cong. 1st Sess., Jan. 3, 1961; 111 CONG. REC. 26, 89th Cong. 1st Sess., Jan. 4, 1965. The Speaker announces his replacement of a Member to serve as a teller to count the electoral votes for President and Vice President. 123 CONG. REC. 312, 95th Cong. 1st Sess., Jan. 6, 1977.

§ 3.2 Tellers on the part of the Senate to count the electoral votes are appointed by the

Vice President. 107 CONG. REC. 72, 87th Cong. 1st Sess., Jan. 4, 1961.

§ 3.3 The Speaker appointed the Chairman and ranking minority member of the Committee on House Administration as tellers on the part of the House to count the electoral votes. 115 CONG. REC. 36, 91st Cong. 1st Sess., Jan. 3, 1969 [S. Con. Res. 1]. For similar appointments by the Speaker, see 123 CONG. REC. 71, 95th Cong. 1st Sess., Jan. 4, 1977 [S. Con. Res. 1, providing for counting the electoral vote in joint session on Jan. 6].

§ 3.4 Where an objection is raised to the counting of any electoral votes from a state, the two Houses divide to consider the objection, and a motion to lay the objection on the table is not in order. 115 CONG. REC. 145-47, 169-72, 91st Cong. 1st Sess., Jan. 6, 1969.

§ 3.5 The two Houses, meeting in joint session to count the electoral votes, may by unanimous consent decide which of two conflicting electoral certificates from a state is valid; and the tellers are then directed to count the electoral votes in the certificate deemed valid. 107 CONG. REC. 288-91, 87th Cong. 1st Sess., Jan. 6, 1961. *Parliamentarian's Note:* A recount of ballots in Hawaii, which was concluded after the Governor of that state had certified the election of the Republican slate of electors, threw that state into the Democratic column; the Governor then sent a second communication to the Administrator of General Services which certified that the Democratic slate of electors had been lawfully appointed. Both slates of electors met on the day prescribed by law, cast their votes, and submitted them to the President of the Senate pursuant to 3 USC §11. When the two Houses met in joint session to count the electoral votes, the votes of the electors were presented to the tellers by the Vice President, and, by unanimous consent, the Vice President directed the tellers to accept and count the lawfully appointed slate.

§ 3.6 In the 91st Congress, a Senator and a Representative submitted an objection to the counting of the electoral votes of North Carolina, stating that the plurality of the popular votes of that state had been cast for Richard Nixon for President, that the 13 electoral votes were authorized to be cast for Richard Nixon and should have been so cast, and providing that no votes from the state be counted for George Wallace for President. 115 CONG. REC. 145-47, 169-72, 91st Cong. 1st Sess., Jan. 6, 1969. The House and Senate, meeting separately, both rejected the objection. The Presiding Officer of the joint session directed the tellers to announce and record the votes as submitted.

§ 3.7 On the day fixed by law and concurrent resolution for the counting of the electoral votes for President and Vice President, the Speaker declined to recognize for one-minute speeches or extensions of remarks before recessing the House subject to the call of the Chair. 115 CONG. REC. 145, 91st Cong. 1st Sess., Jan. 6, 1969.

§ 4. Presidential Nominations for Vice President

§ 4.1 Pursuant to Section 2 of the 25th Amendment to the U.S. Constitution, whenever there is a vacancy in the office of Vice President the President nominates a Vice President to take office upon confirmation by a majority vote of both Houses. 119 CONG. REC. 34032, 93d Cong. 1st Sess., Oct. 13, 1973.

§ 4.2 A message from the President transmitting his nomination of Representative Gerald R. Ford (Michigan) for Vice President of the United States was laid before the House by the Speaker. 119 CONG. REC. 34032, 93d Cong. 1st Sess., Oct. 13, 1973. *Parliamentarian's Note:* The House met on Saturday, October 13, in order to receive the President's nomination (of Gerald R. Ford) on the same day it was re-

ceived by the Senate. A message from President Gerald R. Ford transmitting his nomination of Nelson A. Rockefeller as Vice President was received by the House on August 20, 1974. The nomination was confirmed by the Senate on December 10, 1974, and by the House on December 19, 1974. See 120 CONG. REC. 41516, 93d Cong. 2d Sess.

§ 4.3 The Speaker referred the President's nomination of a Vice President to the Committee on the Judiciary, which has jurisdiction over messages and matters relating to Presidential succession. 119 CONG. REC. 34032, 93d Cong. 1st Sess., Oct. 13, 1973. In the 93d Congress, President Gerald R. Ford's nomination of Nelson A. Rockefeller was referred to the Committee on the Judiciary on August 20, 1974. See 120 CONG. REC. 29366, 93d Cong. 2d Sess.

Chapter 11

Privilege

A. PRIVILEGE OF THE HOUSE

§ 1. In General; Precedence

B. SUITS AGAINST THE HOUSE OR ITS MEMBERS; SUBPENAS

§ 2. In General; Nature and Scope of Privilege

§ 3. The Speaker

§ 4. The Clerk—Civil Actions

§ 5. — Criminal Actions

§ 6. The Sergeant at Arms and Doorkeeper

§ 7. The Members

§ 8. Committees

§ 9. — Committee Employees

§ 10. Authorization for Court Appearance or Disclosure of Documents

§ 11. Effect of Adjournment

§ 12. Providing for Legal Counsel

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C. Personal Privilege of Member

§ 13. Procedure; Stating Questions of Privilege

§ 14. Criticism Before House or Senate

§ 15. Criticism in the Press

A. Privilege of the House

§ 1. In General; Precedence

§ 1.1 *Note:* There are two classes of questions of privilege—the first pertaining to the House collectively, the second pertaining to the Members individually. The privilege of the House may be invoked whenever a question arises as to the safety, dignity or integrity of its proceedings. See Rule IX. Questions of the privilege of the House are raised before the House by resolution. Whenever a question of privilege is raised on the floor by a Member, the Speaker must entertain the question, and rule on its admissibility. See 122 Cong. Rec. 5825, 5826, 94th Cong. 2d Sess., Mar. 9, 1976, where a Member failed to submit a resolution and was thus not recognized to present a question of privilege of the House but was permitted to address the House on a question of personal privilege, since his conduct as chairman of a select committee had been criticized in the press.

§ 1.2 A question of the privileges of the House under Rule IX takes precedence over all questions except the motion to adjourn, and a Member may be recognized to offer a resolution asserting a question of privilege before another Member moves the previous question on a bill reported from Committee of the Whole. 118 Cong. Rec. 18675, 92d Cong. 2d Sess., May 24, 1972. Such a resolution is subject to disposition by the ordinary motions permitted under Rule XVI clause 4 and by the motion to refer under Rule XVII clause 1. 122 Cong. Rec. 3920, 94th Cong. 2d Sess., Feb. 19, 1976 [H. Res. 1042, directing the Committee on Standards of Official Conduct to investigate the unauthorized publication of a select committee report]. In this instance, the House rejected a motion to refer the resolution and then adopted the resolution.

§ 1.3 A resolution involving a question of the privileges of the House under Rule IX takes precedence over District of Columbia business under clause 8 Rule XXIV. 116 Cong. Rec. 41355-57, 41374, 91st Cong. 2d Sess., Dec. 14, 1970.

§ 1.4 A question of the privileges of the House under Rule IX, based upon proceedings in the House, may not be raised in Committee of the Whole. 118 Cong. Rec. 18675, 92d Cong. 2d Sess., May 24, 1972 [H.R. 15097].

§ 1.5 When a Member asserts that he rises to a question of the privileges of the House, the Speaker hears the question and then, if the matter is not one admissible as a question of privilege of the House he can refuse recognition. 114 Cong. Rec. 30214-16, 90th Cong. 2d Sess., Oct. 8, 1968; 120 Cong. Rec. 21596-98, 93d Cong. 2d Sess., June 27, 1974.

§ 1.6 Where a Member offers a resolution which raises a question of the privileges of the House, he is recognized under the hour rule. 113 Cong. Rec. 6035-49, 90th Cong. 1st Sess., Mar. 9, 1967 [H. Res. 376, providing special counsel for the House, the Speaker and other Members named in an action brought by Adam C. Powell, former Representative from New York]; 116 Cong. Rec. 41355-58, 91st Cong. 2d Sess., Dec. 14, 1970 [H. Res. 1306]. Similarly, in the 94th Congress, a Member was recognized to control one hour of debate on a resolution presenting a question of the privilege of the House. 122 Cong. Rec. 3914, 94th Cong. 2d Sess., Feb. 19, 1976 [H. Res. 1042, directing the Committee on Standards of Official Conduct to investigate the unauthorized publication of a report of the Select Committee on Intelligence].

§ 1.7 A question of the privileges of the House may not be invoked to effect a change in the rules of the House. 118 Cong. Rec. 18675, 92d Cong. 2d Sess., May 24, 1972 [H. Res. 1003, to declare a recess on that day to receive a petition relating to the war in Indo-

china]; 120 CONG. REC. 21596-98, 93d Cong. 2d Sess., June 27, 1974; 121 CONG. REC. 26250, 26251, 94th Cong. 1st Sess., July 31, 1975. The principle that a question of the privileges of the House may not be used to effect a change in the rules of the House was invoked by the Speaker against a resolution stating that any member of a committee or subcommittee was entitled to free and complete access to all records of that committee or subcommittee, including executive session material, and was entitled to take personal notes with respect to any nonclassified material in such records and to retain such notes in his personal files. The Speaker held that the resolution was an attempt to change the rules of the House in broadening the definition of the term "access" in Rule XI clause 2(e)(2), and did not present a question of the privileges of the House. 123 CONG. REC. 38470, 95th Cong. 1st Sess., Dec. 6, 1977.

§ 1.8 A resolution purporting to prohibit "all persons" from enjoining the printing and distribution of a committee report filed with the House (the printing and distribution of an earlier similar report having been permanently enjoined by a Federal court) involves a question of the privileges of the House under Rule IX. 116 CONG. REC. 41355-58, 91st Cong. 2d Sess., Dec. 14, 1970 [H. Res. 1306].

§ 1.9 A resolution providing that the House shall stand in recess at a time and date certain to receive a petition for redress of grievances and to permit the petitioners on the floor during that time was held not to give rise to a question of the privileges of the House. 118 CONG. REC. 18675, 92d Cong. 2d Sess., May 24, 1972 [H. Res. 1003].

§ 1.10 A resolution directing the Chairman of the Select Committee on Committees to request the Committee on Rules to report to the House a special order providing for the consideration of a resolution (H. Res. 988) reported by the select committee, and directing the Committee on Rules to immediately consider such a request, was held not to present a question of the privileges of the House under Rule IX as affecting the "integrity of the proceedings of the House," although it was alleged that the chairman of the select committee had neglected to take all necessary steps to bring the measure to a vote as required by Rule XI clause 27(d)(1), where the direction to the Committee on Rules to take a certain action, a motion not in order under the rules of the House, could not collaterally be raised as a question of privilege under Rule IX. 120 CONG. REC. 21596-98, 93d Cong. 2d Sess., June 27, 1974 [H. Res. 1203].

§ 1.11 A Member may not by raising a question of the privileges of the House under Rule IX attach privilege to a question not otherwise in order under the rules of the House. 120 CONG. REC. 21596-98, 93d Cong. 2d Sess., June 27, 1974.

§ 1.12 A charge that the caucus of the majority party and the Committee on Rules had been inactive in regard to a subject reported from a select committee does not give rise to a question of the privileges of the House. 120 CONG. REC. 21596-98, 93d Cong. 2d Sess., June 27, 1974.

§ 1.13 A resolution prohibiting, without the permission of the House, the disclosure of House records in response to process issued by a federal court gives rise to a question of privileges of the House because it involves the protection of House papers and files and the constitutional separation of powers and is called up as privileged. 120 CONG. REC. 40925, 40926, 93d Cong. 2d Sess., Dec. 18, 1974 [H. Res. 1517, In re Common Cause et al. v E.T. Klassen et al.].

§ 1.14 A resolution prohibiting, without the permission of the House, the furnishing of House records or disclosure of information by House employees in response to process issued by a federal court gives rise to a question of the privileges of the House. 121 CONG. REC.

1161, 94th Cong. 1st Sess., Jan. 23, 1975 [H. Res. 85, In re Common Cause et al. v E.T. Klassen et al.].

§ 1.15 A question of the privileges of the House takes precedence under Rule IX over unfinished business which is privileged under Rule XXIV clause 1. 121 CONG. REC. 16860, 94th Cong. 1st Sess., June 4, 1975.

§ 1.16 A resolution directing a committee to meet and conduct certain business, alleged to raise a question of the privileges of the House premised on the temporary absence of the chairman of that committee and the inability of the committee to meet without a call of the chairman, was held not to raise a question of the privileges of the House because members of a committee may convene a special meeting without the call of the chairman under Rule XI clause 2(c)(2); the adoption of the resolution would have altered this rule of the House. 121 CONG. REC. 26250, 26251, 94th Cong. 1st Sess., July 31, 1975.

§ 1.17 A precedent holding that a resolution—directing a committee to meet and consider pending legislation in the absence of its chairman because of illness (6 Cannon's Precedents § 577)—presented a question of the privileges of the House, was held inapplicable where the House had subsequently provided another mechanism in the rules for calling a special meeting in the absence of the chairman (by request of a majority of committee members) and where the chairman was not absent on account of illness but had merely refused to call a special meeting. 121 CONG. REC. 26250, 26251, 94th Cong. 1st Sess., July 31, 1975.

§ 1.18 A resolution directing a committee to investigate the circumstances surrounding the publication in a newspaper of a select committee report which the House had ordered not to be released, gave rise to a question of the privileges of the House under Rule IX as relating to the integrity of House proceedings and the sanctity of its records. 122 CONG. REC. 3914, 94th Cong. 2d Sess., Feb. 19, 1976 [H. Res. 1042].

§ 1.19 Where issues have been raised in judicial proceedings which relate to the validity and effect of subpenas issued by House committees or subcommittees, the authority to intervene in the proceedings and to employ counsel gives rise to a question of the privileges of the House, and resolutions granting such authority may be called up as privileged. 122 CONG. REC. 27858, 94th Cong. 2d Sess., Aug. 26, 1976 [H. Res. 1420]. In the case in question, United States v AT&T, the U.S. District Court for the District of Columbia had granted summary judgment for the United States on July 30, 1976 (Civ. Action No. 76-1372), enjoining AT&T from transmitting documents requested in a subpena from an oversight subcommittee, without prior authorization of the executive branch. Compare 121 CONG. REC. 41707, 94th Cong. 1st Sess., Dec. 18, 1975 [H. Res. 899, authorizing the Committee on Interstate and Foreign Commerce to intervene in Ashland Oil Corp. v FTC]. *Note:* The court in this case had issued a temporary restraining order against the FTC and its officers prohibiting release of certain documents to any third party, including Members of the House. When the restraining order was issued there was no committee subpena outstanding for any of the documents within the FTC's possession. A subcommittee desired to intervene in the case and considered presenting a resolution from the floor, authorizing such intervention, as raising a question of the privilege of the House. However, since the court order restrained only FTC officers and employees from releasing documents, and since there was no committee subpena which would have been affected by the order, such a resolution would not have raised a question of the privilege of the House. Subsequently, the committee issued a subpena to the FTC. At that point, the order of the court did affect the ability of the House to receive subpenaed informa-

tion and the resolution could have involved a question of the privilege of the House.

§ 1.20 An alleged violation of Rule XXXII relating to admission to the floor of former Members presents a question of the privileges of the House under Rule IX. Thus, in the 94th Congress, a resolution directing the Committee on Rules to inquire into press accounts that former Members had come onto the floor of the House who were directly interested in a pending bill, and to report on remedies to secure strict enforcement of Rule XXXII, raised a question of the privileges of the House under Rule IX. 122 CONG. REC. 29498, 29499, 94th Cong. 2d Sess., Sept. 9, 1976 [H. Res. 1526].

§ 1.21 A resolution directing a committee to investigate the impact on the House of a test authorized by the Speaker involving television coverage of its proceedings, and directing that committee to report to the House at the earliest practicable date on its findings and recommendations, including whether such coverage should be made available to the public, raises a question of the privileges of the House under Rule IX. 123 CONG. REC. 7608, 95th Cong. 1st Sess., Mar. 15, 1977 [H. Res. 404, to authorize the Committee on Rules to investigate a television broadcast test of House proceedings].

§ 1.22 A resolution asserting that the integrity and constitutional prerogatives of the House would be violated if the House passed by a majority vote a joint resolution extending the time period for state ratification of a constitutional amendment already submitted to the states, and asserting that a two-thirds vote was required thereon, was held by the Speaker to present a question of the privileges of the House under Rule IX. However, a question relating to the correct procedure during floor consideration of a particular measure or matter may not be raised as a question of privilege until such time as such measure or matter is eligible for immediate consideration in the House by special order or under the general rules of the House. 124 CONG. REC. 26203, 95th Cong. 2d Sess., Aug. 15, 1978 [H.J. Res. 638, Equal Rights Amendment Extension].

§ 1.23 A resolution raising a question of the privileges of the House may be laid on the table after it has been read but before debate thereon. 124 CONG. REC. 26203, 95th Cong. 2d Sess., Aug. 15, 1978 [H.J. Res. 638, Equal Rights Amendment Extension]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 30, 1979 [H. Res. 391].

§ 1.24 A resolution asserting that a portion of the debate carried in the *Congressional Record* of a preceding day is not a true and accurate record of the proceedings that took place, and directing that the *Congressional Record* be corrected to carry a true and accurate record of the proceedings, presents a question of the privileges of the House under Rule IX. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 7, 1979 [H. Res. 260, correcting proceedings in the *Congressional Record* of May 3, 1979].

§ 1.25 A resolution expressing the sense of the House as to proper attire for Members during sessions of the House gives rise to a question of the privileges of the House under Rule IX, involving the dignity and decorum of House sessions. In one instance, the House laid on the table a resolution, offered as a question of privilege of the House, permitting Members to dispense with coats and ties during summer months. The House then agreed to a resolution, also offered as a question of privilege of the House, requiring Members to wear proper attire as determined by the Speaker (who had already announced that coats and ties constituted proper dress for male Members), and denying noncomplying Members the privilege of the floor. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979 [H. Res. 369; H. Res. 370].

§ 1.26 A resolution alleging that the Senate has violated the constitutional prerogatives of the House by adding a revenue measure to a

Senate bill presents a question of the privileges of the House under Rule IX. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 8, 1979 [H. Res. 478].

§ 1.27 It is not in order to raise as a question of the privileges of the House a proposition to amend or interpret the rules of the House or to impinge on the Chair's power of recognition. A resolution directing that the Speaker exercise his prerogative and reinstitute the custom of allowing one-minute speeches at the beginning of the session was held not to raise a question of the privileges of the House (the Speaker pro tempore having announced that during the remainder of the week he would not entertain such requests). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 25, 1980.

§ 1.28 A resolution directing the Committee on Rules to inquire into the accuracy of press accounts of alleged secret motions made by the Clerk of the House without notice to the House to quash a subpena duces tecum served upon him presents a question of the privileges of the House under Rule IX. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 13, 1980 [H. Res. 578].

§ 1.29 A resolution requiring an investigation into the safety of Members in light of alleged structural deficiencies in the West Front of the Capitol raises a question of the privileges of the House. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 25, 1980.

B. SUITS AGAINST THE HOUSE OR ITS MEMBERS; SUBPENAS

§ 2. In General; Nature and Scope of Privilege

§ 2.1 On September 17, 1980, the House adopted House Resolution 722, which provides general authority to the Members, officers, and employees of the House to comply with subpenas served on them in relation to their official functions, and established new procedures to be followed in complying with subpenas. 126 CONG. REC. p. ....., 96th Cong. 2d Sess. Until the 95th Congress, whenever a Member, officer, or employee received a subpena, the House had to consider the adoption of a resolution authorizing a response. The House would decide in each case whether the person should or should not comply with the subpena. Then on January 4, 1977, and again on January 15, 1979, the House adopted a resolution (H. Res. 10) which granted general authority to Members, officers, and employees to respond to subpenas duces tecum, but reserving to itself the right to revoke this permission in any specific case. The resolution established a procedure by which automatic compliance could be effected without the necessity of a House vote. (See § 10, infra.) House Resolution 722 revises this procedure and adds new steps to be taken in responding to subpenas relating to the official functions of the House. The resolution (1) directs compliance with such subpenas, subject to the applicable constitutional and legal rights of the party served and of the House itself, unless otherwise determined pursuant to the resolution; (2) requires that the Speaker be promptly notified of the receipt of such subpena and that such notification be laid before the House; (3) requires that any Member, officer, or employee who intends to seek a judicial determination as to the propriety of the issuance of the subpena must first notify the Speaker thereof; (4) requires that, when a determination has been made as to the propriety of the subpena, the Speaker and the House are so notified. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 17, 1980 [H. Res. 722]. *Note:* The purpose of the requirement that those seeking a judicial determination as to the validity of a subpena must give notice is to insure that the Speaker is informed when legal proceedings could involve the rights and privileges of the House, its Mem-

bers, officers, and employees, are anticipated, and in order that the Speaker can properly discharge his duties in the protection of the House and in the preservation of its integrity and rights and privileges.

§ 2.2 The Speaker laid before the House a communication from the Clerk, informing the House that he had been served with a summons and complaint in a civil action brought in a Federal court in which the U.S. Congress had been named as a defendant. 119 CONG. REC. 34991, 34992, 93d Cong. 1st Sess., Oct. 25, 1973.

§ 2.3 The Speaker laid before the House a communication from the Clerk, informing the House of the receipt of a summons and complaint following the *sine die* adjournment of the preceding Congress, naming the House and Senate as defendants in a civil action brought in Federal court. 117 CONG. REC. 1503, 92d Cong. 1st Sess., Feb. 3, 1971. *Note:* The Clerk requested the U.S. Attorney for the Eastern District of Pennsylvania to represent the House under the provisions of 2 USC § 118, although technically the Clerk had not been named in his official capacity as a party defendant.

§ 2.4 The Clerk having received a summons and complaint naming the House of Representatives as a defendant in a civil action pending in a Federal court, informed the Speaker who laid the matter before the House. The Clerk advised that he had, pursuant to 2 USC § 118, requested the U.S. Attorney for the District of Columbia to represent the House in the matter. 119 CONG. REC. 41258, 93d Cong. 1st Sess., Dec. 13, 1973.

§ 2.5 The Speaker laid before the House a communication from the Clerk, informing the House of the receipt of a summons and complaint, naming the Speaker and Clerk as defendants in a civil action in a Federal District Court, and requesting the Speaker to obtain representation by the U.S. Attorney pursuant to 2 USC § 118. 119 CONG. REC. 29, 93d Cong. 1st Sess., Jan. 3, 1973. *Note:* Several Members of the House were also named as defendants in this action, but under 2 USC § 118 they could not request representation by the U.S. Attorney. The action was subsequently dismissed.

§ 2.6 The Speaker, the majority and minority leaders and certain members of a committee to investigate the right of a Member to be sworn, having been summoned and named as defendants in a civil action brought by that Member in the U.S. District Court for the District of Columbia, the Speaker laid the matter before the House. 113 CONG. REC. 6035-49, 90th Cong. 1st Sess., Mar. 9, 1967 [H. Res. 376, providing special counsel for the House, the Speaker and other Members named in the action brought by Adam C. Powell, former Representative from New York, was adopted by the House].

§ 2.7 The Clerk and the Sergeant at Arms of the House, having been served with a subpena duces tecum requiring their presence before a Federal grand jury and calling upon both officers to produce original papers of the House within their control, informed the Speaker who laid the matter before the House. 114 CONG. REC. 80, 90th Cong. 2d Sess., Jan. 16, 1968 [H. Res. 1022, authorizing the Clerk and Sergeant at Arms to respond to the subpena duces tecum].

§ 2.8 The Speaker laid before the House a communication from the Clerk, informing the House of the receipt of a summons and complaint naming the House as a defendant in a federal civil action seeking to enjoin the impeachment proceedings pending in the House. 120 CONG. REC. 16496, 93d Cong. 2d Sess., May 28, 1974 [National Citizens' Committee for Fairness to the President et al. v U.S. Senate, U.S. House of Representatives, et al.].

§ 2.9 A U.S. District Court held that a suit alleging wrongful use of government funds

could not be brought against officers of the House under the False Claims Act where the plaintiff did not possess information supporting his allegations independent of that reported in the press and within the possession of federal investigators. 123 CONG. REC. 17725, 95th Cong. 1st Sess., June 7, 1977, setting forth a communication from the Clerk to the Speaker advising that a suit brought against the Clerk, Sergeant at Arms, and Assistant Sergeant at Arms had been dismissed in a U.S. District Court, and transmitting the memorandum order of the court dismissing the suit for failure of the plaintiff to satisfy the jurisdictional requirements of the False Claims Act. *Note:* In this case, United States *ex rel.* Thompson v Pendergast (D.D.C. 1977), Civ. Action No. 76-2006, an action was brought under the False Claims Act (31 USC §§231 et seq.) to recover funds which had allegedly been wrongfully claimed from the government by the defendants. The basis for the action was an article in the Washington Post concerning the activities of a Congressman who was the subject of a government investigation. It appeared to the court that the act was not intended to authorize suits by those having no information or facts of their own but rather have obtained information simply from governmental investigations and newspaper articles.

§ 2.10 Several officers and employees of the House informed the Speaker that they had received subpenas duces tecum or ad testificandum to appear as prosecution witnesses in a Federal criminal action involving a Member as the defendant; the Speaker laid the subpenas and various related court orders before the House. 124 CONG. REC. 31758, 95th Cong. 2d Sess., Sept. 26, 1978 [see H. Res. 1383, authorizing compliance with subpenas in U.S. v Diggs].

§ 3. The Speaker

§ 3.1 When the Speaker is summoned in a civil action, the privilege of the House is involved, and he submits the matter to the House. 109 CONG. REC. 504, 88th Cong. 1st Sess., Jan. 17, 1963. *Note:* In this instance, a U.S. Deputy Marshall came to the Speaker's Rooms with a summons, but the Speaker advised him by telephone that he would accept service at his hotel that evening, but did not want to accept service at the Capitol. See also 111 CONG. REC. 2645, 89th Cong. 1st Sess., Feb. 11, 1965, where the Speaker announced from the Chair that he had accepted service at his residence of a subpena duces tecum from a U.S. District Court.

§ 3.2 The Speaker, having been named in his official capacity as a defendant in a suit brought in a U.S. District Court, and having received a summons requiring him to answer the complaint in the action within 60 days, laid the matter before the House for its consideration. 115 CONG. REC. 24002, 91st Cong. 1st Sess., Sept. 3, 1969. *Note:* The case, Thomas W. Jones et al. v Richard Nixon, James Hare and the United States House of Representatives, was brought in the U.S. District Court for the Eastern District of Michigan and involved the apportionment of Representatives in the House. After the Speaker had been served with a summons, he requested the Attorney General to provide legal representation in the case.

§ 3.3 The Speaker, having been served with a subpena duces tecum in a federal criminal action, notified the House and announced that the papers requested in the subpena were not within his possession or control. 120 CONG. REC. 21907, 93d Cong. 2d Sess., July 1, 1974. *Note:* The subpena duces tecum, issued on behalf of defendant G. Gordon Liddy in the "Watergate criminal trial," [U.S. v John D. Ehrlichman et al.] directed the Speaker to pro-

duce documents within the custody of the Committee on Armed Services; that committee had already refused to turn over those documents in response to similar subpenas issued and served upon them. The Speaker was thus advised to lay the matter before the House and to announce his lack of custody so that the House, by refusing to take action, would be responding for the record to the subpena.

§ 4. The Clerk—Civil Actions

§ 4.1 The Speaker laid before the House a letter and communication from the Clerk, informing the House of the receipt of a summons, naming the Clerk as a defendant in a civil action. The letter advised the House that the Clerk had, pursuant to 2 USC § 118, requested the U.S. Attorney for the District of Columbia to represent him in the action. 114 CONG. REC. 19359, 90th Cong. 2d Sess., July 1, 1968.

§ 4.2 The Speaker laid before the House a communication from the Clerk, advising that he had been served with a summons and complaint in a civil action in a Federal court brought by the American Civil Liberties Union. The letter advised the House that the Clerk had, pursuant to 2 USC § 118, requested the U.S. Attorney for the District of Columbia to represent him in the action. 118 CONG. REC. 34040, 92d Cong. 2d Sess., Oct. 5, 1972.

§ 4.3 The Clerk having been served with a notice of taking of deposition in a civil action in which he had been named as a defendant in his official capacity, informed the Speaker who laid the matter before the House. 119 CONG. REC. 8485, 93d Cong. 1st Sess., Mar. 19, 1973 [H. Res. 313, authorizing the Clerk to respond to a notice of the taking of a deposition in the case of Common Cause v W. Pat Jennings, et al.].

§ 4.4 The Clerk having received a civil subpena duces tecum to appear before a Federal District Court, informed the Speaker who laid the matter before the House. The House then adopted a resolution authorizing the Clerk to appear but not take papers. 113 CONG. REC. 3286, 90th Cong. 1st Sess., Feb. 13, 1967.

§ 4.5 The Clerk having been served with a subpena duces tecum and a notice of the taking of a deposition issued by a Federal court in a civil action, informed the Speaker who laid the matter before the House. 119 CONG. REC. 37136, 37137, 93d Cong. 1st Sess., Nov. 15, 1973 [H. Res. 705, authorizing the Clerk to respond to a subpena duces tecum in a civil action brought by Ralph Nader, seeking information filed with the Clerk pursuant to the Corrupt Practices Act by certain election campaign committees prior to the 1972 Presidential election].

§ 5. — Criminal Actions

§ 5.1 The Clerk, having received a subpena duces tecum from a Federal District Court in a criminal action, informs the Speaker who lays the matter before the House. 106 CONG. REC. 4407, 86th Cong. 2d Sess., Mar. 3, 1960; 107 CONG. REC. 5850, 87th Cong. 1st Sess., Apr. 13, 1961; 117 CONG. REC. 31575, 92d Cong. 1st Sess., Sept. 13, 1971. *Note:* The Federal grand jury was investigating alleged "kickbacks" paid by certain employees of Representative Collins (Tex.) as a condition of employment. See also 117 CONG. REC. 47667, 92d Cong. 1st Sess., Dec. 17, 1971 [H. Res. 755, authorizing the Clerk to respond to subpena duces tecum issued in the case of United States v John Dowdy, et al.]; 118 CONG. REC. 6326, 92d Cong. 2d Sess., Mar. 1, 1972 [H. Res. 854, authorizing the Clerk to respond to a subpena duces tecum in the case of U.S. v Boyle].

§ 5.2 The Clerk, having received a summons to appear and testify before a District of Columbia court in a criminal case, informed the

Speaker who laid the matter before the House. The House then agreed to a resolution authorizing him to appear and testify. 111 CONG. REC. 16592, 89th Cong. 1st Sess., July 13, 1965.

§ 5.3 The Clerk, having received a subpena duces tecum from a Federal grand jury, informs the Speaker who lays the matter before the House. 115 CONG. REC. 32005, 91st Cong. 1st Sess., Oct. 29, 1969 [H. Res. 601, authorizing the Clerk to make certain papers available to the grand jury]. *Note:* Since the subpena did not ask for original documents, but only "authenticated copies", the resolution was drafted to permit the Clerk to take the copies to the grand jury with him. Past resolutions have permitted the Clerk to respond to the subpena but not to take documents, and have permitted the court, through its agents, to come to the Clerk's office and make copies of relevant documents. See also 118 CONG. REC. 28285, 92d Cong. 2d Sess., Aug. 15, 1972 [H. Res. 1091, authorizing the Clerk to respond to a subpena duces tecum in a Federal grand jury investigation of alleged salary "kickbacks" to Representative J. Irving Whalley].

§ 5.4 The Speaker laid before the House letters from the Clerk, advising that he and an employee in his office had been subpenaed to appear and testify before a grand jury impanelled by the U.S. District Court, District of Columbia. The House adopted a resolution authorizing the Clerk to respond to the subpena. 113 CONG. REC. 29374-76, 90th Cong. 1st Sess., Oct. 19, 1967.

§ 5.5 The Clerk, having received a subpena duces tecum from a Federal District Court in a criminal action in which a Member of the House was the defendant, informed the Speaker who laid the matter before the House. 117 CONG. REC. 39512, 92d Cong. 1st Sess., Nov. 5, 1971 [H. Res. 690, authorizing the Clerk to respond to subpena duces tecum issued in the case of U.S. v John Dowdy, et al.].

§ 5.6 The Clerk, having been served with a subpena ad testificandum issued by a U.S. District Court in Maryland, informed the Speaker who laid the communication before the House. 117 CONG. REC. 47185, 92d Cong. 1st Sess., Dec. 15, 1971 [H. Res. 749].

§ 6. The Sergeant at Arms and Doorkeeper

§ 6.1 The Speaker lays before the House a communication from the Sergeant at Arms, informing the House of the receipt of a summons, naming the Sergeant at Arms as a defendant in a civil action. 116 CONG. REC. 28502, 91st Cong. 2d Sess., Aug. 12, 1970; 119 CONG. REC. 23961, 23962, 93d Cong. 1st Sess., July 16, 1973.

§ 6.2 The Sergeant at Arms having received a summons to appear and testify before a criminal court in the District of Columbia, informed the Speaker who laid the matter before the House. 111 CONG. REC. 16529, 89th Cong. 1st Sess., July 13, 1965.

§ 6.3 The Doorkeeper of the House having received a subpena duces tecum from a U.S. District Court, reported the facts to the Speaker, who laid the matter before the House. 107 CONG. REC. 5851, 87th Cong. 1st Sess., Apr. 13, 1961.

§ 6.4 The Sergeant at Arms of the House having received a subpena duces tecum to appear before the grand jury of New York County, N.Y., reported the facts to the Speaker who laid the matter before the House. 111 CONG. REC. 5338, 89th Cong. 1st Sess., Mar. 18, 1965.

§ 6.5 The Speaker laid before the House a letter from the Sergeant at Arms, informing the House of the receipt of a subpena duces tecum from the grand jury, U.S. District Court, District of Columbia. 113 CONG. REC. 17561, 90th Cong. 1st Sess., June 27, 1967 [H.

Res. 674, permitting the Sergeant at Arms to respond to a subpena duces tecum].

§ 6.6 The Sergeant at Arms having received a subpena ad testificandum from the United States District Court for the Southern District of New York, reported the matter to the Speaker, who laid it before the House. The House agreed to a resolution authorizing the Sergeant at Arms to appear in response to the subpena. 106 CONG. REC. 4393, 86th Cong. 2d Sess., Mar. 3, 1960.

§ 7. The Members

§ 7.1 Where a Member receives a subpena as a witness from U.S. District Court, a question of the privilege of the House arises. 106 CONG. REC. 2515, 86th Cong. 2d Sess., Feb. 15, 1970.

§ 7.2 Where a Member receives a subpena as a witness from a Federal court, a question of the privilege of the House arises, and the matter is laid before the House for its consideration. 106 CONG. REC. 2515, 86th Cong. 2d Sess., Feb. 15, 1960; 106 CONG. REC. 6131, 86th Cong. 2d Sess., Mar. 21, 1960; 107 CONG. REC. 2481, 87th Cong. 1st Sess., Feb. 21, 1961; 115 CONG. REC. 34301, 91st Cong. 1st Sess., Nov. 17, 1969. Thus, a Member, having received a subpena from a Federal District Court to appear for the taking of a deposition as a witness in a civil action pending in another Federal District Court, rose to a question of the privileges of the House. The House then adopted a privileged resolution in response to the subpena permitting a Member to appear for the purpose of the deposition at any time when the House was not in session. 122 CONG. REC. 581, 94th Cong. 2d Sess., Jan. 22, 1976 [H. Res. 971].

§ 7.3 A Member having received a subpena duces tecum to appear as a witness before a U.S. District Court, a question of privilege of the House arises. 107 CONG. REC. 2000, 87th Cong. 1st Sess., Feb. 9, 1961; 107 CONG. REC. 2480, 87th Cong. 1st Sess., Feb. 21, 1961.

§ 7.4 A Member having received a subpena ad testificandum from a U.S. District Court, a question of privilege of the House arises. 106 CONG. REC. 6027, 86th Cong. 2d Sess., Mar. 18, 1960; 107 CONG. REC. 5844, 87th Cong. 1st Sess., Apr. 13, 1961.

§ 7.5 A Member, having received a subpena duces tecum from the Tax Court of the United States, rose to a question of privilege of the House. 115 CONG. REC. 23354, 91st Cong. 1st Sess., Aug. 12, 1969.

§ 7.6 Where a Member is subpenaed to appear and testify before a state court, a question of privilege of the House arises. 111 CONG. REC. 17002, 89th Cong. 1st Sess., July 15, 1965; 117 CONG. REC. 36494, 92d Cong. 1st Sess., Oct. 18, 1971. In 1976, a Member, having received a subpena from a state court to appear and testify as a witness in a criminal action, rose to a question of privileges of the House. The House then adopted a privileged resolution permitting the Member to appear as a witness in the case when the House was not in session. 122 CONG. REC. 145, 94th Cong. 2d Sess., Jan. 19, 1976 [H. Res. 956]. The same procedure was followed in the 95th Congress to authorize a Member to appear as a witness in a civil case before a Maryland state court. 124 CONG. REC. 31703, 95th Cong. 2d Sess., Sept. 26, 1978 [H. Res. 1382].

§ 7.7 A Member, having received a subpena ad testificandum from a state district court, may rise to a question of privilege of the House. 113 CONG. REC. 35129, 90th Cong. 1st Sess., Dec. 6, 1967; 116 CONG. REC. 11863, 91st Cong. 2d Sess., Apr. 15, 1970 [H. Res. 917, authorizing Representative Belcher, Oklahoma, to appear in state district court in the criminal case of Oklahoma v Jessie Block].

§ 7.8 A Member having been summoned as a witness in a criminal proceeding pending in a

District of Columbia Court, may rise to a question of privilege of the House. 115 CONG. REC. 26008, 91st Cong. 1st Sess., Sept. 18, 1969.

§ 7.9 A subpena to a Member to appear before a grand jury gives rise to a question of the privileges of the House. 105 CONG. REC. 1623, 86th Cong. 1st Sess., Feb. 2, 1959; 108 CONG. REC. 8006, 87th Cong. 2d Sess., May 9, 1962; 109 CONG. REC. 12488, 88th Cong. 1st Sess., July 15, 1963. A Member, having been subpenaed to testify before a federal grand jury while the House was in session, rose to a question of the privileges of the House. The House then adopted a privileged resolution authorizing the Member to respond to the subpena whenever the House was not in session. 122 CONG. REC. 9125, 94th Cong. 2d Sess., Apr. 1, 1976 [H. Res. 1124].

§ 7.10 A Member, having been served by a state court with an order to appear and to show cause, rose to a question of the privileges of the House. 116 CONG. REC. 16165, 91st Cong. 2d Sess., May 19, 1970. *Note:* The Member had been served with a subpena duces tecum by a state court to appear as a witness for the plaintiff and to bring with him certain documents in his possession. He appeared in response to the subpena, but refused to bring the requested documents and refused to answer oral interrogatories propounded by counsel for plaintiff. He was then served with an order to show cause why he should not be compelled to answer the interrogatories which had been propounded to him. Because the court order requested him to appear while Congress was in session, he raised a question of the privileges of the House. He did not request the House to authorize his appearance, and no further action was taken in the matter.

§ 7.11 A Member, having been served by a state court with an order to appear and answer oral interrogatories, rose to a question of the privileges of the House. 116 CONG. REC. 25333, 91st Cong. 2d Sess., July 22, 1970 [H. Res. 1155, authorizing a Member to answer oral interrogatories in Phoenix, Arizona, in the case of Yuma Greyhound Park, Inc. v Samuel Jenkins, et al.].

§ 7.12 A Member, having been subpenaed to testify in a criminal action in a D.C. Court of General Sessions, rose to a question of the privileges of the House. 118 CONG. REC. 318, 92d Cong. 2d Sess., Jan. 19, 1972 [H. Res. 767, authorizing a Member to testify in the case of U.S. v Ernest Long].

§ 7.13 A Member, having been subpenaed to testify at a preliminary hearing in a criminal action pending in a state court, rose to a question of the privileges of the House. The Member did not wish to respond to the subpena, and the House did not authorize his appearance. 117 CONG. REC. 33114, 92d Cong. 1st Sess., Sept. 23, 1971.

§ 7.14 A Member, having received a summons to appear before a court of the city of Alexandria, Va., rose to a question of the privilege of the House. The House agreed to a resolution authorizing him to appear and testify. 110 CONG. REC. 13017, 88th Cong. 2d Sess., June 9, 1964.

§ 7.15 A Member, having received a subpena to appear and testify before the Federal Communications Commission, rose to a question of the privilege of the House. He did not request the House to authorize his appearance, and the House took no further action in the matter. 109 CONG. REC. 4392, 88th Cong. 1st Sess., Mar. 18, 1963.

§ 7.16 Where a subpena duces tecum directed to a Member was, after service on the Member, modified by court order, the Member informed the House of the modification when he presented the subpena to the House. 107 CONG. REC. 2000, 87th Cong. 1st Sess., Feb. 9, 1961.

§ 8. Committees

§ 8.1 The Chairman of the Committee on Ways and Means, having been served with a subpena duces tecum to appear as a witness in a criminal action and to produce the transcript of an executive session of that committee, rose to a question of the privileges of the House. 117 CONG. REC. 23813, 92d Cong. 1st Sess., July 7, 1971. *Note:* The Chairman of the Committee on Ways and Means had been subpenaed by defendants in a criminal prosecution arising out of the May 5, 1971 demonstrations on the steps of the House. The Committee on Ways and Means had been meeting in executive session before and during the demonstrations. Counsel for the defendant demonstrators sought to show through introduction of the transcript of that executive session that the committee was not disturbed or interrupted in its deliberations. However, the transcript could not be produced before the court, or copied by officials of the court, unless the committee first authorized its release and the House then permitted its production. The committee did not authorize release of the transcript, and the House took no action to permit the chairman's response to the subpena.

§ 8.2 The Chairman of the Committee on Internal Security, having been subpenaed to appear as a witness in a criminal action and to produce the transcript of an open hearing of that committee, rose to a question of the privileges of the House. 117 CONG. REC. 23813, 92d Cong. 1st Sess., July 7, 1971. *Note:* The transcript of the open session of that committee was open for inspection at the committee, but the transcript could not be produced, nor copies made, without the permission of the House. The House did not adopt a resolution granting such permission.

§ 8.3 The Chairman of the Committee on Standards of Official Conduct, having received a subpena duces tecum from a Federal grand jury, rose to a question of the privileges of the House. 118 CONG. REC. 28286, 92d Cong. 2d Sess., Aug. 15, 1972 [H. Res. 1092, authorizing the chairman to respond to a subpena duces tecum in a Federal grand jury investigation of alleged salary "kickbacks" by employees of Representative J. Irving Whalley].

§ 8.4 The Chairman of the Committee on Armed Services, the Chairman of that committee's Subcommittee on Intelligence, and an employee of that committee having been served with a subpena duces tecum requiring the production in a federal criminal action of testimony taken during an executive session of the subcommittee, the chairman of the full committee informed the Speaker who laid the matter before the House. 120 CONG. REC. 16918, 93d Cong. 2d Sess., May 30, 1974 [U.S. v John D. Ehrlichman et al.]. *Note:* The House, by taking no action, in effect refused to permit the chairman to comply with the subpena duces tecum. The executive session testimony had not been released or made public by the committee pursuant to Rule XI clause 27(o), and in any event certified copies of the committee's minutes could not be released without the permission of the House. On a subsequent day the subcommittee chairman informed the Speaker of the withdrawal of the subpena and the Speaker laid that communication before the House. 120 CONG. REC. 18072, 93d Cong. 2d Sess., June 6, 1974.

§ 9. — Committee Employees

§ 9.1 The employees of the House (including committee employees) are among those who under House Resolution 722, 96th Congress, must notify the Speaker when they have received a subpena or are seeking a determination as to its validity (see § 2.1, supra). Under the former practice, where a committee employee was served with a subpena, the employee merely notified the chairman of his committee, who advised the Speaker; the

matter was then laid before the House for its consideration. 113 CONG. REC. 29374, 90th Cong. 1st Sess., Oct. 19, 1967; 125 CONG. REC. 1642, 96th Cong. 1st Sess., June 4, 1979.

§ 9.2 Certain employees and former employees of the Committee on Internal Security having been named parties defendant in a Federal civil action and having received discovery orders and written and oral interrogatories, a question of the privileges of the House was invoked. 117 CONG. REC. 4584, 4593, 92d Cong. 1st Sess., Mar. 2, 1971 [H. Res. 264, authorizing production of certain files and testimony of the designated employees].

§ 9.3 Where a committee clerk receives a subpena duces tecum from a court, the chairman of the committee by letter advises the Speaker who lays it before the House. 105 CONG. REC. 5858, 86th Cong. 1st Sess., Apr. 14, 1959; 105 CONG. REC. 6825, 86th Cong. 1st Sess., Apr. 27, 1959; 105 CONG. REC. 6944, 86th Cong. 1st Sess., Apr. 28, 1959. In the 94th Congress, the House adopted a privileged resolution authorizing a committee employee to respond to a subpena. The resolution prohibited the production of original committee records, but permitted the court to take copies upon determination of relevancy except for executive session materials. 122 CONG. REC. 1642, 94th Cong. 2d Sess., Jan. 29, 1976 [H. Res. 1001].

§ 9.4 The Speaker laid before the House a letter from the clerk, Committee on House Administration, informing the House of the receipt of a subpena duces tecum from the grand jury, U.S. District Court, District of Columbia, in connection with its inquiry into certain activities of former Representative Adam Clayton Powell. 113 CONG. REC. 17562, 90th Cong. 1st Sess., June 27, 1967 [H. Res. 675, permitting the clerk to respond to the subpena duces tecum]; see also 114 CONG. REC. 81, 90th Cong. 2d Sess., Jan. 16, 1968 [H. Res. 1023, permitting the clerk, Committee on House Administration, to respond to subpena duces tecum issued by the grand jury].

§ 9.5 Counsel for the Committee on Un-American Activities having received a subpena duces tecum from a U.S. District Court, the chairman by letter advised the Speaker, who laid it before the House. The House agreed to a resolution authorizing counsel to appear and testify. 107 CONG. REC. 2482, 87th Cong. 1st Sess., Feb. 21, 1961.

§ 9.6 A staff investigator for a House committee having received a subpena to appear as a witness in a civil action in a state court, the chairman of the committee by letter advised the Speaker and the Speaker pro tempore laid it before the House. The House agreed to a resolution authorizing the investigator to appear and testify. 108 CONG. REC. 8823, 87th Cong. 2d Sess., May 21, 1962.

§ 9.7 An investigator for the Committee on Un-American Activities having received a subpena from a U.S. District Court in a criminal case, the chairman of the committee by letter advised the Speaker, who laid the matter before the House. The House agreed to a resolution authorizing the investigator to appear and testify. 107 CONG. REC. 2482, 87th Cong. 1st Sess., Feb. 21, 1961.

§ 9.8 Where a subpena duces tecum directed to the Counsel, Committee on Un-American Activities, was modified by court order, the chairman of the committee informed the House of the modifications when he by letter advised the Speaker. The House agreed to a resolution authorizing counsel to appear and testify. 107 CONG. REC. 2482, 87th Cong. 1st Sess., Feb. 21, 1961.

§ 10. Authorization for Court Appearance or Disclosure of Documents

§ 10.1 By resolution, the House may permit a House officer or Member or employee to respond to a summons or subpena. 106 CONG. REC. 4393, 86th Cong. 2d Sess., Mar. 3, 1960 [resolution in reply to a subpena ad testificandum served upon the Sergeant at Arms and authorizing him to appear in response thereto]; 106 CONG. REC. 5358, 86th Cong. 2d Sess., Mar. 11, 1960 [resolution permitting a Member to appear as a witness in response to a subpena]; 107 CONG. REC. 2482, 87th Cong. 1st Sess., Feb. 21, 1961 [resolution permitting the Counsel, Committee on Un-American Activities, to appear as a witness in response to a subpena duces tecum].

§ 10.2 The House agreed to a resolution in reply to a subpena addressed to a staff investigator authorizing him to appear as a witness in a state court [in a civil action] but prohibiting him from testifying to any matter based on knowledge acquired by him in his official capacity. 108 CONG. REC. 8823, 87th Cong. 2d Sess., May 21, 1962.

§ 10.3 By resolution the House authorized the Speaker to permit officers and employees of the House to appear in response to subpenas ad testificandum issued by the District Court, District of Columbia, in connection with an investigation being conducted by the grand jury. 113 CONG. REC. 29374-76, 90th Cong. 1st Sess., Oct. 19, 1967. *Note:* The U.S. Attorney had advised the Speaker that several officers and employees of the House might be subpenaed to appear and testify before the Federal grand jury in connection with its investigation into possible violations of the criminal code. Rather than have each officer and employee authorized by separate resolution, the Speaker was given the authority to authorize such appearances. Each officer and employee who thereafter received a subpena in connection with the grand jury proceedings informed the Speaker who then responded with a written authorization.

§ 10.4 A resolution providing for the production of certain committee documents pursuant to a court order involves the privileges of the House, and the Member calling up the resolution is recognized under the hour rule. 115 CONG. REC. 17948, 91st Cong. 1st Sess., July 1, 1969 [H. Res. 459, permitting compliance with a discovery order issued by a U.S. District Court in connection with contempt proceedings brought against certain individuals pursuant to 2 USC § 192; the resolution was called up and considered as privileged, although the resolution had not been formally reported by a committee].

§ 10.5 The House permitted extracts from certain committee files and specified original committee documents to be made available to a United States Attorney for inspection and copying by the defendants in a contempt action brought by the United States under 2 USC § 192, where such disclosure was ordered by the District Court [pursuant to Rule 16, Federal Rules of Criminal Procedure] in which the prosecution was pending. 115 CONG. REC. 17948, 91st Cong. 1st Sess., July 1, 1969 [H. Res. 459, permitting compliance with a discovery order issued by a U.S. District Court; this was the first such resolution adopted by the House in compliance with a discovery order issued under the Federal Rules of Criminal Procedure].

§ 10.6 By privileged resolution the House provided for: (1) making available certain public records and documents of the Committee on Internal Security in response to discovery orders and written interrogatories served upon committee employees; (2) permitting inspection and copying at the committee offices of certain other unedited and uncompiled public records (at plaintiff's expense); and (3) authorizing those employees to respond to

oral interrogatories with respect to public information gained in their official capacities, but prohibiting such employees and former employees from disclosing information not made public. 117 CONG. REC. 4584, 4593, 92d Cong. 1st Sess., Mar. 2, 1971 [H. Res. 264].

§ 10.7 Where one Congress has, by resolution, authorized a Member to appear in response to a subpena issued by a Federal court, and the court's proceedings extend into the next Congress, the Member must again obtain permission of the House if he still wishes to respond to the subpena. 107 CONG. REC. 2480, 87th Cong. 1st Sess., Feb. 21, 1961; 107 CONG. REC. 5844, 87th Cong. 1st Sess., Apr. 13, 1961.

§ 10.8 The Clerk having notified the House that he had been authorized by the preceding Congress to appear as a witness in a certain case, and that the case was still in progress, the House passed a resolution permitting his further appearance as a witness. 107 CONG. REC. 4917-19, 87th Cong. 1st Sess., Mar. 27, 1961.

§ 10.9 Several employees of the House having received subpenas duces tecum in a federal civil action requesting the production of House records in their possession, their supervisory authorities informed the Speaker who laid the matter before the House. 120 CONG. REC. 33020-23, 93d Cong. 2d Sess., Sept. 30, 1974 [Common Cause et al. v E.T. Klassen et al.]. *Note:* The Staff Director of the Democratic Congressional Campaign Committee—a party organization—was also served with a similar subpena duces tecum, but because he is not a House employee in that capacity, and the records under his control were not House records, he did not inform the Speaker of receipt of the subpena.

§ 10.10 Several employees of the House having received motions to compel them to respond to subpenas duces tecum previously served upon them in a federal civil action requesting the production of House records in their custody, their supervising authorities informed the Speaker who laid the matter before the House. 120 CONG. REC. 41863, 93d Cong. 2d Sess., Dec. 10, 1974 [Common Cause et al. v E.T. Klassen et al.]. In this instance, Common Cause was suing the Postal Service and the Treasury Department in an attempt to challenge the constitutionality of a statute permitting mailing under the congressional frank of certain materials within 28 days of an election so long as they were not "mass mailings." Because the subpenas did not specify with sufficient particularity the documents which they sought, it was determined that no response by resolution would be made by the House. In the 94th Congress, a privileged resolution was reported from the Committee on Rules authorizing the House Commission on Congressional Mailing Standards to intervene in a civil action pending before a federal three-judge court wherein the constitutionality of the law permitting congressional mailing under the franking privilege was being litigated. 122 CONG. REC. 21852, 94th Cong. 2d Sess., July 1, 1976 [H. Res. 1382, authorizing the Commission on Congressional Mailing Standards to intervene in Common Cause v Bailar]. *Note:* The House authorized intervention to permit the legislative branch to be directly represented in all the substantive issues argued before the court. House Resolution 1382 was jointly sponsored by the Majority and Minority Leaders and was referred to the Committee on Rules; it was reported therefrom as privileged under Rule XI clause 4(a), since under Public Law No. 93-191 the commission is composed solely of House Members, performs an advisory function solely for the House, and is thus subject to the direction and control of the House as would be any standing or select committee.

§ 10.11 Several employees of the House having received subpenas duces tecum in a federal civil action requesting the production of House records in their possession, the House adopted a resolution asserting the con-

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stitutional privilege of the House against the disclosure of the requested information by those employees without the permission of the House. 120 CONG. REC. 41863, 93d Cong. 2d Sess., Dec. 18, 1974 [H. Res. 1517, In re Common Cause et al. v E.T. Klassen et al.]. *Note:* See 120 CONG. REC. 33020-23, 93d Cong. 2d Sess., Sept. 30, 1974, and 120 CONG. REC. 38730, 93d Cong. 2d Sess., Dec. 10, 1974, wherein the Speaker informed the House of receipt of subpenas and motions to compel response to subpenas served upon various House employees in the case involving Common Cause. When it became apparent that the court would hold a status call in the case on Dec. 20, 1974, it was determined that to assert the privileges of the House and to protect the subpenaed employees from possible contempt proceedings the House should adopt a resolution merely asserting the proper privilege, while leaving to the 94th Congress the responsibility for appointing special counsel to make a special appearance or to take other appropriate action to represent the interests of the House at the motion to dismiss the action scheduled to be heard on Jan. 27, 1975.

§ 10.12 Several employees of the House having received applications for orders to show cause why they should not be held in contempt of court for failure to comply with subpenas duces tecum previously served upon them—the House having adopted a resolution precluding their compliance—their supervisory authorities informed the Speaker who laid the matter before the House. 120 CONG. REC. 41863, 93d Cong. 2d Sess., Dec. 20, 1974 [Common Cause et al. v E.T. Klassen et al.].

§ 10.13 Several employees of the House having received subpenas duces tecum in the prior Congress in a federal civil action requesting the production of House records in their possession, the House adopted a privileged resolution: (1) asserting the lack of relevance between the requested material and plaintiff's requested relief; (2) reasserting the privileges of the House against the production of documents and disclosure of information by House employees under the doctrine of separation of powers; (3) permitting cooperation upon a determination of relevancy by the Court consistent with privileges of the House; and (4) authorizing the Speaker to appoint counsel to represent the House and its employees. 121 CONG. REC. 1161, 94th Cong. 1st Sess., Jan. 23, 1975 [H. Res. 85, regarding Common Cause et al. v E.T. Klassen et al.].

§ 10.14 A communication from the Minority Leader to the Speaker transmitting a subpena duces tecum received by the Director of the Republican Research Committee of the House Republican Conference in the case of Common Cause v Bailar, pending in the Federal District Court for the District of Columbia, requiring him to appear for a deposition and to bring with him certain papers was laid before the House. No action was taken by the House with respect to the subpena. 121 CONG. REC. 29824, 94th Cong. 1st Sess., Sept. 23, 1975. *Note:* Benjamin F. Bailar succeeded E.T. Klassen as Postmaster General of the United States. See 121 CONG. REC. 1161, 94th Cong. 1st Sess., Jan. 23, 1975, for the resolution in response to subpenas received by several House employees in this case. That resolution authorized the Speaker to appoint counsel to represent the House and its employees. The law firm of Covington and Burling was retained to represent the House and under the authority of that resolution the lawyers of that firm handling the case were asked to represent Mr. Starling, Director, Republican Research Committee.

§ 10.15 The House agreed to a privileged resolution in response to a subpena served on an employee of the House permitting the employee to respond and be deposed, authorizing the production of certified copies of the documents covered by the subpena, and further authorizing the Speaker to request the attorneys retained under the authority of a previous

resolution passed in response to subpenas served on other House employees in this case to also represent the employee covered by this resolution. 121 CONG. REC. 38719, 38720, 94th Cong. 1st Sess., Dec. 4, 1975 [H. Res. 903, authorizing the Director of the Republican Research Committee, Jay Starling, to appear in response to a subpena in the case of Common Cause v Bailar]. Later, in the same Congress, several employees of the House having been ordered by a U.S. District Court in a civil action to produce House records in their possession, pursuant to a stipulation and protective order agreed upon by the plaintiff and by the employees, the Majority Leader advised the Speaker who laid the communication and the order before the House. The House then adopted a privileged resolution authorizing the employees to produce certain information, from House records in their possession, requested pursuant to the stipulation and protective order, and authorizing payment from the contingent fund, on vouchers to be signed by the Speaker, of legal and administrative expenses incurred in formulating and executing the stipulation and protective order. 122 CONG. REC. 5829, 94th Cong. 2d Sess., Mar. 9, 1976 [H. Res. 1082]. *Note:* The adoption of this resolution finally disposed of the discovery problem in the case of Common Cause v Bailar (Civ. Action No. 1887-73), wherein voluminous material in the possession of the House was sought by the plaintiffs to show alleged violations of constitutional rights by the operation of the congressional franking privilege. The authority for payment in this resolution covered the legal fees for the attorneys appointed by the Speaker to represent the House employees named in the court order.

§ 10.16 The Speaker laid before the House a communication from the Clerk, advising that a federal judge had determined that documents requested in a subpena duces tecum previously served on the Clerk and laid before the House were relevant to a criminal action against a Member and that certified copies were requested. The House agreed to a privileged resolution authorizing the Clerk to furnish certified copies of such documents to the court. 120 CONG. REC. 464, 465, 93d Cong. 2d Sess., Jan. 23, 1974 [H. Res. 781, regarding U.S. v Bertram L. Podell et al.].

§ 10.17 Where the Clerk had been served with a subpena duces tecum during a *sine die* adjournment, during which period the House had authorized the furnishing of certified copies of requested documents upon determination of relevancy, but the court had not advised the Clerk of its determination during that period, the House adopted a resolution permitting production of certified copies when notified of the court's determination after reconvening. 120 CONG. REC. 464, 465, 93d Cong. 2d Sess., Jan. 23, 1974 [H. Res. 781, regarding U.S. v Bertram L. Podell et al.]. *Note:* Representative Podell (N.Y.) had been indicted by a federal grand jury on several counts of conspiracy and fraud, and the U.S. Attorney had subpenaed campaign contribution records submitted by Representative Podell with the Clerk during his term as a Member. House Resolution 12, adopted on the opening day of the 93d Congress, authorized the Clerk to furnish certified copies of subpenaed documents upon determination of relevancy during adjournment periods, but where the court's determination of relevancy is not communicated to the Clerk until the House reconvenes, that resolution is inoperative and the House must adopt another resolution to authorize the taking of copies.

§ 10.18 The Chairman of the Committee on the Judiciary and an employee of that committee having received subpenas duces tecum requesting the production in a federal criminal action of "non-public statements, testimony and interviews" taken during the inquiry into the impeachment of President Nixon, the chairman informed the Speaker who laid the communication before the House. The House agreed to a privileged resolution (1) asserting

the sole power of the House to impeach and to investigate possible impeachments; (2) not authorizing any personal appearances; and (3) permitting the court to take copies of certain materials upon a determination of relevancy and asserting that such limited access was not an infringement of impeachment power, except that no executive session material could be released. 120 CONG. REC. 30025 et seq., 93d Cong. 2d Sess., Aug. 22, 1974 [H. Res. 1341, regarding U.S. v John N. Mitchell et al.]. *Note:* Neither Chairman Rodino (N.J.) nor Mr. Doar, the special counsel, wished to appear personally in response to the subpena; since their personal testimony was not insisted upon by the court, no authority was granted for their appearance.

§ 10.19 The Clerk and the Chairman of the Committee on House Administration having received subpenas duces tecum requesting the production of public documents in their possession in a federal criminal action against a Member, informed the Speaker who laid the matter before the House. The House agreed to a privileged resolution authorizing the Clerk to furnish copies of certain House documents to the court upon determination of relevancy; no personal appearances were permitted in response to the subpenas duces tecum. 120 CONG. REC. 32023, 32024, 93d Cong. 2d Sess., Sept. 23, 1974 [H. Res. 1380, regarding U.S. v Bertram L. Podell et al.]. *Note:* At the request of Representative Hays (Ohio), Chairman of the Committee on House Administration, the Clerk was given custody of the public documents which were in the possession of that committee for the purpose of their copying by the Clerk and no personal appearances by anyone on the Clerk's or committee's staff were permitted. In an analagous instance in the 94th Congress, where the subpena requested production of clerk-hire records of a former Member, the matter was handled similarly. 122 CONG. REC. 17105, 94th Cong. 2d Sess., June 9, 1976 [H. Res. 1273, authorizing the Clerk to respond to a subpena in a grand jury investigation of former Member James Hastings].

§ 10.20 The Speaker has often laid before the House a communication from an officer of the House stating that the officer has been served with a subpena duces tecum to appear in a pending judicial proceeding with specified documents of the House. Generally, the House has agreed to a privileged resolution authorizing the officer to appear but not to take original papers. The resolution further provides that certified copies of the papers may be obtained upon a court determination of the materiality and relevancy thereof. 120 CONG. REC. 2889, 2890, 93d Cong. 2d Sess., Feb. 13, 1974 [H. Res. 859]; 120 CONG. REC. 31123, 31124, 93d Cong. 2d Sess., Sept. 16, 1974 [H. Res. 1366]; 121 CONG. REC. 26177, 26178, 94th Cong. 1st Sess., July 31, 1975 [H. Res. 663]. Sometimes the officer will not be authorized to appear personally, although the requested documents may be obtained upon a court determination of the materiality and relevancy thereof. 121 CONG. REC. 2636, 2637, 94th Cong. 1st Sess., Feb. 6, 1975 [H. Res. 156]; 121 CONG. REC. 33787, 94th Cong. 1st Sess., Oct. 23, 1975 [H. Res. 819]; 121 CONG. REC. 41972, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Res. 946]. In one instance, an official was authorized to appear with uncertified copies of the requested documents without a court determination of relevancy, where the return date of the subpena was only three days away. 121 CONG. REC. 17981, 17982, 94th Cong. 1st Sess., June 10, 1975 [H. Res. 519, directing the Chief of Capitol Police to appear]. In the 94th Congress, the Clerk and the Sergeant at Arms received subpenas duces tecum to deliver certain payroll records to a federal grand jury. In both cases, the House adopted privileged resolutions authorizing those officers to furnish copies of the records to the grand jury upon a court determination of relevancy. 122 CONG. REC. 4999, 5000, 94th Cong. 2d Sess., Mar. 2, 1976 [H. Res. 1064, authorizing the Sergeant

at Arms to respond to a subpena duces tecum in a grand jury investigation of Mr. Henry Helstoski]; 122 CONG. REC. 16244, 16245, 94th Cong. 2d Sess., June 2, 1976 [H. Res. 1233, authorizing the Clerk to respond to a subpena duces tecum in a grand jury investigation of Mr. Henry Helstoski].

§ 10.21 The Clerk and the staff director of the Committee on House Administration, having received subpenas duces tecum requesting employment records of former employees of that committee to be furnished to a federal grand jury, informed the Speaker who laid the matter before the House as a question of the privileges of the House. The House then adopted privileged resolutions authorizing copies of finance office and committee employment records to be made available to the grand jury upon a court determination of relevancy, but not authorizing personal appearances. 122 CONG. REC. 21166, 94th Cong. 2d Sess., June 29, 1976 [H. Res. 1384, authorizing responses to subpenas duces tecum in a grand jury investigation of Mr. Wayne L. Hays]. Subsequently, the House adopted a resolution authorizing the Clerk to appear before the grand jury and to deliver the original documents called for in the subpenas, under conditions designed to assure the integrity of such documents, and providing that the documents remain in the possession of the Clerk during their examination and be returned to the Clerk immediately upon the conclusion of their examination by the grand jury. 122 CONG. REC. 24089, 24090, 94th Cong. 2d Sess., July 27, 1976 [H. Res. 1429]. *Note:* The resolution adopted in this instance was unique in that it allowed the examination by the grand jury of original House documents. As the subpenas duces tecum indicated, laboratory examination of the original documents by the FBI was requested. The resolution was drafted to ensure that physical alteration or destruction of the documents did not occur during their analysis.

§ 10.22 A subpena duces tecum issued to a Member to testify before a federal grand jury and to bring certain House documents gives rise to a question of the privilege of the House. The House agreed to a privileged resolution authorizing a Member to respond to a subpena duces tecum when the House was not in session but precluding production of that portion of subpenaed documents in possession of the House. 121 CONG. REC. 41804, 41805, 94th Cong. 1st Sess., Dec. 18, 1975 [H. Res. 940, authorizing Representative Helstoski (N.J.) to respond to a subpena duces tecum].

§ 10.23 A Member who had received two subpenas to appear and testify as a witness in civil actions pending in a federal district court, rose to a question of privilege of the House and submitted the subpenas to the House for consideration. The House adopted a privileged resolution authorizing a Member to appear, at such times as the House was not in session, in compliance with two subpenas. 121 CONG. REC. 16860, 94th Cong. 1st Sess., June 4, 1975 [H. Res. 508, authorizing Representative John M. Slack, Jr. (W. Va.) to appear in response to certain subpenas in Ben-Tom Supply Co., Inc. v V.N. Green & Co., Inc.].

§ 10.24 A Member having received a subpena from the State Superior Court of the County of Orange, California, to appear and testify in a criminal prosecution, gave rise to a question of the privilege of the House. The House adopted a privileged resolution issued by a state court, permitting a Member to appear and testify at any time when the House was not in session. 121 CONG. REC. 37888, 37889, 94th Cong. 1st Sess., Dec. 1, 1975 [H. Res. 892, authorizing Jerry M. Patterson to appear in People v Battin].

§ 10.25 A federal court of claims having issued an order compelling production of records of the House Office Building Commission in the possession of the House, the Majority Leader—a member of the commission—

rose to a question of the privileges of the House. The House agreed to a privileged resolution in response to an order of the U.S. Court of Claims requiring the production of certain executive session documents of the House Office Building Commission, asserting the privilege against release without permission of the House thereby refusing to release the documents. 121 CONG. REC. 41972, 41973, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Res. 947, regarding Baltimore Contractors, Inc. v U.S.]. *Note:* No subpena had ever been issued for the documents. The Majority Leader, Thomas P. O'Neill, Jr. (Mass.), as a member of the building commission, rose to a question of the privileges of the House giving a brief factual description of the order and presented the resolution. The documents covered by the order were all executive session material, and since compliance would not affect the outcome of the case it was decided not to authorize the release of the documents. In the next Congress, the court issued an order declaring the relevancy of a portion of those documents, and the House adopted a privileged resolution permitting copies of the minutes of the commission to be made available to the court. 123 CONG. REC. 1724, 95th Cong. 1st Sess., Jan. 19, 1977 [H. Res. 120, authorizing production of documents in Baltimore Contractors Inc. v U.S.].

§ 10.26 The Clerk, having been served with a subpena duces tecum issued by a U.S. district court in Wisconsin in a criminal action, informed the Speaker who laid the communication before the House. The House agreed to a privileged resolution authorizing the production of a subpenaed document—a letter to the Chairman of the Committee on Ways and Means sent during a prior Congress and at the Archives under the Clerk's custody—after a court determination of materiality and relevancy thereof, but not authorizing the appearance of the Clerk. 121 CONG. REC. 28320, 94th Cong. 1st Sess., Sept. 10, 1975 [H. Res. 709, authorizing the Clerk's response in U.S. v National Board of Fur Farm Organizations, Inc. et al.].

§ 10.27 The Clerk, having been served with a subpena commanding his appearance, or that of an authorized representative, in court in a criminal action, informed the Speaker who laid the matter before the House. The House adopted a privileged resolution authorizing the Clerk or his representative to appear as a witness. 121 CONG. REC. 2626, 94th Cong. 1st Sess., Feb. 6, 1975 [H. Res. 155, regarding U.S. v David E. Gumaer].

§ 10.28 The Clerk having been served with a subpena duces tecum from a District of Columbia grand jury in a federal criminal investigation requesting the production of employment records of a former House employee, the Clerk informed the Speaker who laid the matter before the House. The House agreed to a privileged resolution authorizing the Clerk or his authorized representative to respond to a subpena duces tecum but not to produce original documents and permitting the Court to take copies upon a determination of relevancy. 120 CONG. REC. 31123, 31124, 93d Cong. 2d Sess., Sept. 16, 1974 [H. Res. 1366, regarding U.S. v David E. Gumaer].

§ 10.29 The House agreed to a privileged resolution in response to a series of written interrogatories issued to the Clerk, requesting production of certain documents, authorizing the Clerk to answer the interrogatories, and provide certified copies of documents requested upon court determination of relevance and materiality thereof. 121 CONG. REC. 36277, 94th Cong. 1st Sess., Nov. 13, 1975 [H. Res. 863, regarding Socialist Workers 1974 National Committee et al. v W. Pat Jennings, Clerk of the House et al.]. Where the Clerk had received written interrogatories and a request for production of documents in a federal civil action in which the Clerk had been served as defendant, the House adopted a privileged resolution: (1) Asserting the privilege of officers

and employees of the House against being compelled to furnish information obtained in their official capacity without the permission of the House; (2) permitting the Clerk to answer written interrogatories; and (3) permitting copies of certain requested documents to be furnished upon a court determination of relevancy. 122 CONG. REC. 8885, 8886, 94th Cong. 2d Sess., Mar. 31, 1976 [H. Res. 1122, authorizing the Clerk to give written interrogatories in the case of Socialist Workers v Henshaw]. Subsequently, the House in the same case adopted a privileged resolution asserting the privilege of the House against the production by the Clerk of certain other documents. 122 CONG. REC. 16245, 94th Cong. 2d Sess., June 2, 1976 [H. Res. 1234, declining production of documents in case of Socialist Workers v Henshaw]. *Note:* The Justice Department in representing the Clerk in this action (under 2 USC § 118) advised that the request was too broad, but could be narrowed by negotiation prior to compliance by the House. On this advice, the House adopted the resolution asserting its privilege under the doctrine of separation of powers.

§ 10.30 Having been served with a subpena duces tecum from a grand jury in a federal criminal action requesting the production of documents in his control or in the possession of a former special committee no longer in existence, the Clerk informed the Speaker who laid the matter before the House. 120 CONG. REC. 30947, 93d Cong. 2d Sess., Sept. 12, 1974. The House on a subsequent day adopted a privileged resolution authorizing the Clerk to respond to the subpena but not to take requested papers and permitting the court to take copies upon a determination of relevancy. 120 CONG. REC. 31123, 93d Cong. 2d Sess., Sept. 16, 1974 [H. Res. 1365, regarding possible violation of 18 USC § 608].

§ 10.31 The Senate Parliamentarian and the chief counsel of the Senate Committee on the Judiciary were authorized to appear as witnesses in a federal criminal action in the District of Columbia but not to testify as to certain matters. 120 CONG. REC. 22865, 22866, 93d Cong. 2d Sess., July 11, 1975 [S. Res. 357, authorizing appearances in U.S. v Reinecke].

§ 10.32 At the outset of the 95th Congress, the House adopted a procedure simplifying the process by which the House authorized compliance with subpenas duces tecum. It adopted a privileged resolution, House Resolution 10, providing for the disposition of subpenas duces tecum served upon Members, officers, and employees of the House during sessions or adjournments of the 95th Congress, and permitting courts to take copies of House records upon notification to the Speaker of a court order determining relevancy of specific records. The resolution dispensed with the need for separate House action to permit compliance with each subpena, but permitted the House to modify or revoke the authority to take copies in any instance. 123 CONG. REC. 73, 95th Cong. 1st Sess., Jan. 4, 1977.

Under the procedure provided for under House Resolution 10, when a Member, officer, or employee of the House received a subpena duces tecum requesting production of House records, together with a court order specifically determining their relevancy to the pending litigation, the Speaker laid before the House notification of such receipt; the subpena and court order were then printed in the *Congressional Record,* and the court was permitted to take copies of the subpenaed documents (except executive session material) unless the House adopted a privileged resolution to the contrary. This simplified procedure was followed in a number of instances in the 95th Congress. See 123 CONG. REC. 1728, 95th Cong. 1st Sess., Jan. 19, 1977, where the Clerk was served with a subpena duces tecum requesting production of travel records of a former Member before a federal grand jury; 123 CONG. REC. 3887, 95th Cong. 1st Sess., Feb. 8, 1977, where the Sergeant at Arms was

served with a subpena duces tecum requesting production of records of office accounts and personal accounts of two former Members before a federal grand jury; 123 CONG. REC. 5061, 95th Cong. 1st Sess., Feb. 23, 1977, where the Clerk was served with a subpena duces tecum requesting production of campaign reports and records and travel and expense account records of a former Member before a federal grand jury.

The authorization to comply with a subpena duces tecum pursuant to House Resolution 10 was not effective until the receipt of a court order determining the relevancy of the records sought to the pending litigation. Thus, where an officer of the House received a subpena duces tecum requesting production of House records in his possession, unaccompanied by a court order determining their relevancy in the pending litigation, the House officer did not under House Resolution 10 permit copies of such records to be furnished. 123 CONG. REC. 10800, 10801, 95th Cong. 1st Sess., Apr. 6, 1977. In 1978, pursuant to House Resolution 10, the Chair laid before the House a communication from the Clerk transmitting a subpena duces tecum from a federal grand jury of the U.S. District Court for the District of Columbia requesting all records within his possession of telephone calls from or charged to the congressional phone numbers of a Representative, and an order of that court finding the subpenaed documents relevant and material to the grand jury investigation. 124 CONG. REC. 5498, 95th Cong. 2d Sess., Mar. 3, 1978.

Under this procedure, in the 95th Congress, the Speaker laid before the House a communication from the Sergeant at Arms transmitting two subpenas duces tecum from a federal grand jury for House records within his possession (bank records of two Members), and court orders finding the subpenaed materials relevant and material to the grand jury investigations. 124 CONG. REC. 8460, 95th Cong. 2d Sess., Apr. 3, 1978. See also 124 CONG. REC. 8461, 95th Cong. 2d Sess., Apr. 3, 1978, for a similar communication relating to a subpena served on the Clerk.

§ 10.33 At the outset of the 96th Congress, the House adopted a resolution identical to House Resolution 10 (of the 95th Congress). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 10, authorizing responses to subpenas in the 96th Congress]. Pursuant to this resolution, the Speaker laid before the House a communication from the Chairman of the Committee on Appropriations transmitting a subpena duces tecum to an employee of the committee to testify in a federal criminal action against a former Member, and to bring with him personal notes regarding trips made with the former Member on official committee business, where executive session infomation was not involved. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 12, 1979. The same procedure was followed when the Sergeant at Arms received a subpena duces tecum from a federal district court in a criminal case for House documents (bank records) within his possession and control. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 30, 1979.

§ 10.34 House Resolution 10, 96th Congress, which granted permission to any officer of the House to deliver copies of House documents requested by the courts upon a court finding of materiality and relevancy, did not apply to executive session material, which can only be released by a separate resolution passed by the House. Accordingly, in one instance, the House adopted a resolution, offered by the Chairman of the Committee on Standards of Official Conduct as a question of the privileges of the House, granting permission for the staff director of that committee to produce a certified copy of testimony taken in executive session to a federal court pursuant to a subpena duces tecum, upon a finding by the court that the testimony was relevant and material. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 4, 1979 [H. Res. 296].

§ 10.35 On September 17, 1980, the House adopted House Resolution 722, which provides general authority to the Members, officers, and employees of the House to comply with subpenas served on them in relation to their official functions, and established new procedures to be followed in complying therewith. The resolution directs compliance with such subpenas, subject to the applicable constitutional and legal rights of the party served and of the House itself, unless otherwise determined pursuant to the resolution. The resolution requires that when a Member, officer, or employee of the House receives a subpena, he must notify the Speaker thereof promptly; and if a judicial determination as to the propriety of the issuance of the subpena is to be sought, the Speaker must be notified in advance (see § 2.1, supra). House Resolution 722 specifies that House Resolution 10 is of no force or effect with respect to subpenas served after the date of the adoption of House Resolution 722. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 17, 1980.

§ 10.36 By unanimous consent, and prior to the expiration of the time specified by the three-day availability rule, the House considered a privileged resolution reported from the Committee on House Administration authorizing the chairman of a subcommittee to intervene in a pending civil action on behalf of the subcommittee to obtain information in the possession of a federal agency, and authorizing the chairman to retain counsel to determine his rate of compensation from the contingent fund. Subsequently the House adopted the resolution with an amendment recommended by the Committee on House Administration (1) authorizing the subcommittee chairman to intervene on behalf of the full committee, and (2) authorizing the full committee chairman to retain counsel with approval of the Speaker and setting a limit on compensation from the contingent fund. 121 CONG. REC. 41707, 41708, 94th Cong. 1st Sess., Dec. 18, 1975 [H. Res. 899, authorizing the Committee on Interstate and Foreign Commerce to intervene in Ashland Oil Corp. v Federal Trade Commission]. *Note:* Since the resolution provided for an expenditure from the contingent fund, it was a privileged resolution under Rule XI clause 4(a). However, it was still subject to the three-day layover requirement of Rule XI clause 2(l)(6). The Journal correctly indicates that the resolution was called up by unanimous consent.

§ 11. Effect of Adjournment

§ 11.1 The House may by resolution authorize court appearances in response to subpenas served upon Members, officers or employees of the House during recesses and adjournments of a particular Congress. 113 CONG. REC. 35, 90th Cong. 1st Sess., Jan. 10, 1967; 115 CONG. REC. 37, 91st Cong. 1st Sess., Jan. 3, 1969 [H. Res. 15]; 117 CONG. REC. 16, 92d Cong. 1st Sess., Jan. 21, 1971 [H. Res. 9]; 119 CONG. REC. 30, 31, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 12].

§ 11.2 Under the terms of a resolution adopted by the House at the commencement of a Congress, no Member, officer or employee of the House may release minutes or transcripts of committee executive sessions pursuant to court order during an adjournment of the House to a day certain or *sine die*. 116 CONG. REC. 37652, 91st Cong. 2d Sess., Nov. 17, 1970; 117 CONG. REC. 2741, 92d Cong. 1st Sess., Feb. 17, 1971.

§ 11.3 The Clerk, having received subpenas duces tecum during an adjournment to a day certain to appear before a General Courts Martial and to produce certain executive session testimony taken by a subcommittee of the House Committee on Armed Services, informed the Speaker who laid the matter before the House when it reconvened. 116 CONG. REC. 37652, 91st Cong. 2d Sess., Nov. 17, 1970; 117 CONG. REC. 2741, 92d Cong. 1st

Sess., Feb. 17, 1971. *Note:* The Clerk was advised: (1) that the Committee on Armed Services was the proper custodian of such testimony and that an employee of that committee should have been the recipient of the subpenas; and (2) that the committee could meet (even during an adjournment period) and pursuant to clause 28(o) of Rule XI, order the testimony to be made public. Following the expiration of the 91st Congress, however, the Clerk, under Rule XXXVI, technically became the custodian of "all evidence taken by such committee under the order of the House during the said Congress and not reported to the House." In fact, however, the Committee on Armed Services retained custody of the requested executive session testimony for continued study. The committee in the 92d Congress, absent an order of the House, could not make executive-session testimony taken in a prior Congress public on its own initiative.

§ 11.4 The Clerk, having received during a *sine die* adjournment a subpena duces tecum in a federal criminal action naming a Member as a defendant, notified the Speaker who laid the matter before the House when it reconvened. 120 CONG. REC. 104, 93d Cong. 2d Sess., Jan. 21, 1974 [U.S. v Bertram L. Podell et al.].

§ 11.5 An employee of the Committee on Armed Services having been served with a subpena duces tecum requesting the production in a federal criminal action of executive session material of that committee during an adjournment period, the chairman informed the Speaker who laid the matter before the House when it reconvened. 120 CONG. REC. 30643, 30644, 93d Cong. 2d Sess., Sept. 11, 1974 [U.S. v John N. Mitchell et al.].

§ 11.6 The Speaker laid before the House a communication from the chairman of a committee transmitting notices of the taking of depositions served upon employees and a former employee of that committee to be taken during a forthcoming period of adjournment to a day certain. 120 CONG. REC. 36017, 36018, 93d Cong. 2d Sess., Oct. 17, 1974 [Koniag, Inc. et al. v Rogers C.B. Morton]. *Note:* The House took no action in response to this request for the taking of depositions.

§ 11.7 The Speaker laid before the House a communication from the Chairman of the Committee on Merchant Marine and Fisheries transmitting notices of the taking of depositions in a federal civil action that had been served upon employees and a former employee of that committee during a period of adjournment to a day certain. 120 CONG. REC. 36278, 93d Cong. 2d Sess., Nov. 18, 1974 [Koniag, Inc. et al. v Rogers C.B. Morton, and Salamatof Village Association et al. v Rogers C.B. Morton].

§ 12. Providing for Legal Counsel

§ 12.1 By resolution the House authorized the Speaker to appoint and fix the compensation of special counsel to represent the House and those Members named as defendants in a suit brought by former Representative Adam C. Powell. The Speaker stated that the adoption of the resolution permitting him to appoint counsel would not in any manner waive the privileges of the House, would not give the court any jurisdiction it did not already have, and would not give the defendants in the action the right to appear in court without the further consent of the House. 113 CONG. REC. 6035-42, 6048, 90th Cong. 1st Sess., Mar. 9, 1967.

§ 12.2 The House, by simple resolution, continued the authority granted the Speaker in the 90th Congress to retain counsel to represent the Members and the House in the suit brought against them by Adam Clayton Powell as a result of his exclusion from the 90th Congress. 115 CONG. REC. 3359, 91st Cong. 1st Sess., Feb. 17, 1969 [H. Res. 243,

continuing the provisions of H. Res. 376, 90th Congress, in the 91st Congress].

§ 12.3 The Speaker laid before the House a communication from the Clerk, informing the House of the receipt of a summons and complaint, naming the House of Representatives as a defendant in a civil action, and advising the House that he had, pursuant to 2 USC § 118, requested the U.S. Attorney for the Southern District of Indiana, to represent the House in the action. 118 CONG. REC. 29136, 92d Cong. 2d Sess., Aug. 18, 1972.

§ 12.4 The Speaker, having been served with a summons and complaint naming him in his official capacity as a defendant in a civil action in a federal district court, laid the summons before the House and advised that he had, pursuant to 2 USC § 118, requested the U.S. Attorney to represent him in the action. 119 CONG. REC. 3207, 93d Cong. 1st Sess., Feb. 5, 1973.

§ 12.5 The Speaker, having been served with a summons and complaint naming him in his official capacity as a defendant (with other Members) in a civil action pending in a federal court, informed the House that he had, pursuant to 2 USC § 118, requested the U.S. Attorney to represent him in the action. 119 CONG. REC. 3207, 93d Cong. 1st Sess., Dec. 10, 1973. *Note:* While the Speaker may not, under 2 USC § 118, formally request the U.S. Attorney to represent other Members who have been named as defendants and who are not "officers" of the House, it was suggested to other Members so named that they informally request the U.S. Attorney to represent their interests as well.

§ 12.6 The Speaker pro tempore announced to the House that the Clerk had, pursuant to 2 USC § 118, requested the U.S. Attorney to represent the Speaker as a defendant in a federal civil action. 117 CONG. REC. 35769, 92d Cong. 1st Sess., Oct. 12, 1971. *Note:* The Clerk was advised to request the U.S. Attorney for the Northern District of Florida to represent the Speaker (to file an answer within 60 days), although technically the Speaker, and not the Clerk, had been named in his representative capacity.

§ 12.7 The Speaker and the Chairman of the Rules Committee having been served with summons and complaint in a civil action pending in federal court, the Speaker laid the matter before the House and advised the House that he had, pursuant to 2 USC § 118, requested the U.S. Attorney for the Eastern District of Louisiana to represent them in the action. 118 CONG. REC. 17398, 92d Cong. 2d Sess., May 16, 1972.

§ 12.8 The Speaker laid before the House a communication from the Clerk advising that the Clerk and the Sergeant at Arms had been served with a supplemental petition adding them as defendants in a civil action already pending in federal court against the Speaker, the Chairman of the Committee on Rules, and the House of Representatives, and advising that the Clerk and Sergeant at Arms had, pursuant to 2 USC § 118, requested the U.S. Attorney for the Eastern District of Louisiana to represent them in the action. 118 CONG. REC. 34583, 92d Cong. 2d Sess., Oct. 10, 1972.

§ 12.9 The Speaker laid before the House a communication from the Clerk, informing the House of the receipt of a summons and complaint naming the Clerk as a defendant in a civil action in a federal district court, and advising that he had, pursuant to 2 USC § 118, requested the U.S. Attorney to represent him in the action. 118 CONG. REC. 5024, 92d Cong. 2d Sess., Feb. 22, 1972; 118 CONG. REC. 5492, 92d Cong. 2d Sess., Feb. 24, 1972; 119 CONG. REC. 9452, 9453, 93d Cong. 1st Sess., Mar. 26, 1973.

§ 12.10 The Speaker laid before the House a communication from the Clerk, informing the House of receipt of replies from the Department of Justice and the U.S. Attorney for the

District of Columbia in which they agreed (pursuant to 2 USC § 118) to furnish representation for the Clerk in a civil action in which the Clerk had been named a defendant, unless a "divergence of interest" developed between the positions of the Clerk and the Justice Department. 118 CONG. REC. 8470, 92d Cong. 2d Sess., Mar. 15, 1972. *Note:* On May 3, 1972, the Clerk received a letter from the Attorney General stating that a "divergence of interest" had developed between the positions of the Clerk and the Justice Department and requesting the Clerk to obtain other counsel. The letter was not communicated to the Speaker or laid before the House. Pursuant to authority granted the Clerk in H. Res. 955, adopted May 3, 1972, the Clerk obtained other counsel. See 118 CONG. REC. 15627, 92d Cong. 2d Sess., May 3, 1972, where a resolution authorizing the Clerk to appoint and fix compensation (to be paid from the contingent fund) of counsel to represent him in any suit brought against him as supervisory officer under the Corrupt Practices Act of 1925 or the Federal Election Campaign Act of 1971, was offered from the floor as privileged. The privileged status of the resolution derived from the question of privileges of the House arising from service upon the Clerk in his official capacity of summons and complaints in two cases pending in a federal district court.

§ 12.11 By unanimous consent, the House considered and agreed to a resolution authorizing the Clerk to appoint legal counsel in suits brought against him under the Federal Election Campaign Act and providing payment of expenses out of the contingent fund upon approval by the Committee on House Administration. 119 CONG. REC. 379, 93d Cong. 1st Sess., Jan. 6, 1973 [H. Res. 92]. *Note:* An attempt was made to call up the resolution as privileged, but since the Committee on House Administration had not been elected and the resolution had not been reported by that committee, the resolution was not privileged.

§ 12.12 The Speaker laid before the House a letter and communication from the Sergeant at Arms informing the House of the receipt of a summons and complaint in a civil suit and that, pursuant to 2 USC § 118, he had requested the U.S. Attorney for the District of Columbia to represent him. 109 CONG. REC. 10359, 88th Cong. 1st Sess., June 6, 1963. *Note:* The suit alleged the withholding of the salary of a Member for periods of alleged absence from the House.

§ 12.13 The Speaker laid before the House a letter and communication from the Acting Architect of the Capitol, informing the House of the receipt of a summons and complaint, naming the Acting Architect of the Capitol as a defendant in a civil action, and advising the House that he had, pursuant to 28 USC § 516, requested the Department of Justice to represent him in the action. 116 CONG. REC. 28502, 91st Cong. 2d Sess., Aug. 12, 1970.

§ 12.14 The Speaker announced that he had been served in his official capacity with a summons and complaint naming the House of Representatives and others as defendants in a civil action in a federal district court and that he had, pursuant to 2 USC § 118, requested the U.S. Attorney for the District of Connecticut to represent the House in the action. 120 CONG. REC. 1188, 93d Cong. 2d Sess., Jan. 29, 1974 [Andrew J. Melechinsky et al. v Richard M. Nixon et al.].

§ 12.15 The Speaker announced to the House that the Clerk, Sergeant at Arms, Minority Leader, and Chairmen of the Committees on Ways and Means and Rules each had been served with a summons and complaint in a federal civil action, and inserted in the Record the Clerk's letter to the U.S. Attorney requesting representation for all named defendants in the action pursuant to 2 USC § 118. 120 CONG. REC. 21723, 21724, 93d Cong. 2d Sess., June 28, 1974 [Robin Ficker v U.S. House of Representatives]. *Note:* Under title 2, USC § 118, a

committee chairman is technically not an officer of the House in the constitutional sense, but where a proper officer of the House is also named, that officer has also requested representation for a named committee chairman but not formally for individual Members under the theory that a chairman is an "officer" of the House.

§ 12.16 *Note:* When the Clerk received a summons and complaint naming the House as a defendant in a federal civil action seeking to enjoin impeachment proceedings pending in the House, the Clerk and the Chairman of the Committee on the Judiciary determined that representation by the appropriate U.S. Attorney pursuant to 2 USC § 118 should not be requested, based upon the doctrine of separation of powers and upon the conferral of the sole power of impeachment on the House by the Constitution. See 120 CONG. REC. 16496, 93d Cong. 2d Sess., May 28, 1974.

§ 12.17 The Speaker laid before the House a communication from the Clerk advising that he (the Clerk) had been served with a summons and complaint as a defendant in a federal civil action, and advising that he had, pursuant to 2 USC § 118, requested the U.S. Attorney for the District of Columbia to represent him in the action. 120 CONG. REC. 31124, 31125, 93d Cong. 2d Sess., Sept. 16, 1974 [Socialist Workers 1974 National Campaign Committee, et al. v W. Pat Jennings, Clerk, U.S. House of Representatives, et al.].

§ 12.18 The Speaker laid before the House a communication from the Clerk, informing the House of the receipt of a summons, naming the Clerk as a defendant in a civil action in a federal district court, and advising the House that he would, pursuant to 2 USC § 118, request the U.S. Attorney for the District of Columbia to represent him in the action. 121 CONG. REC. 33, 34, 94th Cong. 1st Sess., Jan. 14, 1975 [Buckley, et al. v Valeo et al.].

§ 12.19 The Speaker, having been served with a summons and complaint in his official capacity as a defendant in a federal civil action, advised the House that he had, pursuant to 2 USC § 118, requested the appropriate U.S. Attorney to represent him in the action. 121 CONG. REC. 8483, 94th Cong. 1st Sess., Mar. 25, 1975 [Kathryn M. Deats v Carl Albert, Speaker of the House of Representatives].

§ 12.20 Where the Sergeant at Arms was served with a summons and complaint as a defendant in the federal civil action (brought by a Member of the House as plaintiff seeking to test the validity of the Federal Salary Act of 1967 and of the Executive Salary Cost-of-Living Adjustment Act as they related to Members' compensation), the Sergeant at Arms advised the Speaker that he had, pursuant to 2 USC § 118, requested the U.S. Attorney to represent him in the action. 122 CONG. REC. 14926–28, 94th Cong. 2d Sess., May 20, 1976. In this instance the summons and complaint were printed in the *Congressional Record* for the information of Members, since the validity of their cost-of-living salary adjustments was to be litigated. (See Pressler v Simon, discussed in Ch. 7 § 4, supra.) In connection with the same litigation, the Chairman of the Committee on House Administration called up a resolution reported from that committee, authorizing the Sergeant at Arms to employ a special counsel to represent him and providing for the payment from the contingent fund of expenses to employ such counsel, and asked unanimous consent for its immediate consideration (since the committee report thereon had not been available for three days as required by Rule XI clause 2(l)(6)). The House adopted the resolution with an amendment recommended by the committee authorizing the Sergeant at Arms to employ such counsel with the approval of the Speaker and the chairman of the committee, and providing for the payment of attorney's fees, within a certain mone-

tary limit, from the contingent fund. 122 CONG. REC. 28937, 94th Cong. 2d Sess., Sept. 2, 1976 [H. Res. 1497]. *Note:* The resolution would have been privileged for consideration after the report thereon had been available for three days, under Rule XI clause 4(a) and under Rule IX, since it raised a question of the privileges of the House and also provided for payment of expenses from the contingent fund.

§ 12.21 A resolution was reported from the Committee on House Administration and called up as privileged, authorizing its chairman to intervene as a party in a pending civil action in the U.S. Court of Claims (where the court had upheld the constitutionality of a one-house congressional veto), and (*inter alia*) authorizing the chairman, with the approval of the Speaker, to employ special counsel. The resolution authorized payment from the contingent fund of expenses for such employment, not to exceed the unexpended sum on an outstanding contract between the House and a designated attorney, on vouchers signed by the chairman and approved by the Speaker. 123 CONG. REC. 13949, 95th Cong. 1st Sess., Nov. 2, 1977 [H. Res. 884, authorizing the committee to retain counsel to intervene in the case of Atkins v U.S.]. *Note:* The privilege of the resolution is drawn partly from its status as a funding resolution and partly as stating a question of the privileges of the House.

§ 12.22 *Note:* Where in judicial proceedings issues are raised relating to the validity and effect of subpenas of House committees or subcommittees, the authority to intervene in such proceedings and to employ counsel gives rise to a question of the privileges of the House, and resolutions granting such authority may be called up as privileged. 122 CONG. REC. 27858, 94th Cong. 2d Sess., Aug. 26, 1976 [H. Res. 1420, authorizing retention of and participation by outside counsel on behalf of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce in any judicial proceeding concerning certain subpenas]. In the case in question, United States v AT&T, the U.S. District Court for the District of Columbia had granted summary judgment for the United States on July 30, 1976 [Civ. Action No. 76-1372], enjoining AT&T from transmitting documents requested in a subpena from the oversight committee, without prior authorization of the executive branch. Since the interest of the Justice Department was adverse to that of the House in this instance, the retention of outside counsel by the House was considered necessary. See also 123 CONG. REC. 13949, 95th Cong. 1st Sess., May 9, 1977 [H. Res. 334, providing for continuation of appointment of a special counsel to represent the House and the Committee on Interstate and Foreign Commerce in the case of United States v AT&T].

C. PERSONAL PRIVILEGE OF MEMBER

§ 13. Procedure; Stating Questions of Privilege

§ 13.1 Under Rule IX, a Member may raise a question of personal privilege from the floor to respond to criticism of his integrity or conduct in his representative capacity; if sustained by the Chair, he will be recognized for a period not to exceed one hour in which to make his response. 118 CONG. REC. 13491-97, 92d Cong. 2d Sess., Apr. 19, 1972, where a Member was recognized on a question of personal privilege for one hour of debate.

§ 13.2 In seeking recognition on a question of personal privilege, a Member should specify the grounds or basis for his claim. Compare 112 CONG. REC. 13907, 89th Cong. 2d Sess., June 22, 1966, where a Member was recognized on a question of personal privilege without first stating the explicit grounds therefor

or submitting the newspaper column complained of to the Chair for examination.

§ 13.3 A Member rising to a question of personal privilege may not interrupt the reading of the Journal. 114 CONG. REC. 30214-16, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 13.4 In stating a question of personal privilege, a Member must confine his remarks to the subject which he claims gives rise to the question. 116 CONG. REC. 27130, 91st Cong. 2d Sess., Aug. 4, 1970.

§ 13.5 By special order, a Member was permitted 45 minutes in which to respond to a question of personal privilege raised by another Member, in order to deny any intention to impugn the motives or veracity of that Member. 116 CONG. REC. 26436-39, 91st Cong. 2d Sess., July 29, 1970.

§ 13.6 Under the modern practice, Members may not rise to a question of personal privilege in the Committee of the Whole. 105 CONG. REC. 11289, 86th Cong. 1st Sess., June 18, 1959; 115 CONG. REC. 24372, 91st Cong. 1st Sess., Sept. 4, 1969 [during consideration of H.R. 12085, extending the Clean Air Act]; 119 CONG. REC. 41270, 41271, 93d Cong. 1st Sess., Dec. 13, 1973.

§ 13.7 Rather than raising a question of personal privilege, a Member obtained unanimous consent to proceed for five minutes during that part of the session when he would normally have been recognized only for a one-minute speech, to refute a newspaper charge of improper conduct. 108 CONG. REC. 12297, 87th Cong. 2d Sess., June 29, 1962.

§ 13.8 A Member recognized on a question of personal privilege controls one hour of debate. 121 CONG. REC. 15883, 94th Cong. 1st Sess., May 22, 1975.

§ 13.9 Under Rule IX, a question of personal privilege takes precedence over a special-order speech previously scheduled at the conclusion of legislative business. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 21, 1979. In this instance, a Member who had received unanimous consent to address the House under a "special order" rose instead to a question of personal privilege and was recognized for one hour.

§ 14. Criticism Before House or Senate

§ 14.1 A Member rose to a question of personal privilege to respond to allegations impugning his motives and veracity contained in a press release issued by another Member. 116 CONG. REC. 26002, 91st Cong. 2d Sess., July 28, 1970, where the Speaker determined that a Member's press statement, challenging the truthfulness and good faith of another Member's submission of additional views to accompany a select committee's report on U.S. military involvement in Southeast Asia, presented a question of personal privilege under Rule IX.

§ 14.2 A statement before a Senate committee which challenged the integrity of an official transcript of a hearing before a committee of the House, thus impugning the integrity of those responsible for its preparation, gave rise to a question of personal privilege. 105 CONG. REC. 11587, 86th Cong. 1st Sess., June 23, 1959. In this instance, the implication that a Member had misrepresented a House document, made in testimony before a Senate committee, and which included the statement that "I should think that your suspicions would be aroused against the man who provided you with this document and told you that it was a committee report. It is not and it never has been. . . ." gave rise to a question of personal privilege. 105 CONG. REC. 8868, 86th Cong. 1st Sess., May 21, 1959.

§ 15. Criticism in the Press

§ 15.1 Newspaper accounts of a grand jury indictment of a Member for alleged criminal conspiracy, perjury and tax evasion gave rise to a question of personal privilege. 118 CONG. REC. 13491-97, 92d Cong. 2d Sess., Apr. 19, 1972.

§ 15.2 A Member was given permission to address the House for one minute on a point of personal privilege to respond to a newspaper article which included an unfavorable reference to his congressional service. 113 CONG. REC. 33693, 90th Cong. 1st Sess., Nov. 22, 1967.

§ 15.3 A newspaper article alleging improper lobbying activities by a Member to preserve personal financial interests in his brother's estate gave rise to a question of personal privilege. 108 CONG. REC. 9792, 87th Cong. 2d Sess., June 6, 1962.

§ 15.4 A Member asked for and was recognized on a question of personal privilege following publication of a newspaper column alleging that he had introduced legislation to repeal excise taxes on cars and trucks but had failed to list the name of his law firm or its clients, including a trucking firm, in the Congressional Directory. 112 CONG. REC. 13907, 89th Cong. 2d Sess., June 22, 1966.

§ 15.5 A newspaper article alleging that a Member, the Chairman of the Committee on Appropriations, had "rammed through" a resolution pending before his committee, without allowing debate and without explanation, gave rise to a question of personal privilege. 108 CONG. REC. 13681, 87th Cong. 2d Sess., July 16, 1962. *Note:* The Members had importuned the Speaker, prior to the House meeting, to be recognized for 15 minutes during the customary one-minute speeches, but on being advised that the Speaker would adhere to the "one-minute rule," claimed time to speak as a matter of personal privilege.

§ 15.6 A Member may rise to a question of personal privilege based on a press account criticizing him in his official capacity. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 21, 1979. Thus, a newspaper article charging a Member with conflict of interest gave rise to a question of personal privilege under Rule IX, as the account reflected upon that Member's conduct in his representative capacity. 121 CONG. REC. 15883, 94th Cong. 1st Sess., May 22, 1975.

§ 15.7 A Member rose to a question of personal privilege under Rule IX to refute press allegations that he had wrongfully claimed more than $2,000 in "out-of-pocket" expenses in a fund-raising activity, such allegations having been made against him in his representative capacity. 122 CONG. REC. 4062, 94th Cong., 2d Sess., Feb. 23, 1976. *Note:* The Member did not consume any of the time allotted to him (one hour) but merely inserted his remarks in the *Congressional Record.*

§ 15.8 Press accounts of alleged improper disposition of classified documents by a select committee which reflected upon the chairman's conduct in his representative capacity gave rise to a question of personal privilege. 122 CONG. REC. 5825, 5826, 94th Cong. 2d Sess., Mar. 9, 1976. *Note:* A question concerning charges as to the propriety of committee procedure, as opposed to charges against an individual Member in his representative capacity, is more properly raised by a question of the privileges of the House, under Rule IX, through debate on a resolution, rather than by raising a question of personal privilege, assuming that the dignity or integrity of House proceedings is directly at issue. Since the Member's conduct as chairman of the select committee had been indirectly criticized by the press accounts of missing committee files, the Speaker permitted him to address the House on a question of personal privilege.

§ 15.9 A Member, having been criticized in his representative capacity by a "newsletter" of a public lobbying organization, rose to a question of personal privilege. 122 CONG. REC. 13745, 94th Cong. 2d Sess., May 13, 1976.

§ 15.10 The Chairman of the Committee on House Administration rose to a question of personal privilege to respond to a press allegation that he had employed a person on that committee who did no work therefor. 122 CONG. REC. 15344–46, 94th Cong. 2d Sess., May 25, 1976.

§ 15.11 A Member was recognized on a question of personal privilege to respond to statements impugning his motives and actions as a Member of the House and as a member of the Committee on Standards of Official Conduct. 124 CONG. REC. 3853, 95th Cong. 2d Sess., Feb. 21, 1978. See also Ch. 6 § 3, supra.

§ 15.12 A newspaper article alleging that a judge had stated that a Member had violated the securities law gave rise to a question of personal privilege. 124 CONG. REC. 16056, 95th Cong. 2d Sess., June 2, 1978.

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Chapter 12

Conduct; Expulsion and Other Penalties

§ 1. In General; Standards of Official Conduct

§ 2. Punishment; Expulsion, Censure, and Reprimand

§ 1. In General; Standards of Official Conduct

§ 1.1 The Committee on Standards of Official Conduct was established April 13, 1967. 113 CONG. REC. 9425-48, 90th Cong. 1st Sess. [H. Res. 418]. The jurisdiction of the committee was redefined on April 3, 1968, when the committee was incorporated into Rules X and XI. At the same time a new Rule XLIII, a code of conduct for Members, officers, and employees of the House, and a new Rule XLIV, relating to financial disclosure, were put into effect. 114 CONG. REC. 8802, 8803, 90th Cong. 2d Sess., Apr. 3, 1968.

§ 1.2 On January 14, 1975 [H. Res. 5, 94th Cong.], legislative jurisdiction over measures relating to the raising, reporting, and use of campaign contributions for candidates for the House was transferred from the Committee on Standards of Official Conduct to the Committee on House Administration [Rule X clause 1(j)(14)]. On July 8, 1970 [H. Res. 1031, 91st Cong.], the committee was given jurisdiction over measures relating to lobbying activities but effective January 4, 1977 [H. Res. 5, 95th Cong.], jurisdiction over that subject and jurisdiction over measures relating to financial disclosure by Members, officers, and employees of the House were removed from the committee. In the 95th Congress, several rules relating to the official conduct of members were adopted but not incorporated into Rule XLIII, the "Code of Official Conduct": Rule XLV, prohibiting unofficial office accounts, Rule XLVI, limiting the use of the frank, and Rule XLVII, limiting outside earned income [H. Res. 287, Mar. 2, 1977].

§ 1.3 The Committee on Standards of Official Conduct is authorized, under clause 4(e) Rule X, to issue and publish advisory opinions with respect to the general propriety of any current or proposed conduct of a Member, officer or employee of the House, upon request of any such person. 116 CONG. REC. 1077, 91st Cong. 2d Sess., Jan. 26, 1970 [H. Res. 796].

§ 1.4 In the resolution adopting the rules for the 94th Congress, the House amended, *inter alia,* Rule XLIII clause 6, to provide that campaign funds should not be converted to personal use unless such conversion is specifically provided by law; at the same time the House added a new clause 9, prohibiting discriminatory employment practices. 121 CONG. REC. 22, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5].

§ 1.5 The House amended Rule XLIII by adding clause 10 to express the policy of the House that Members judicially convicted of crimes punishable by two or more years of imprisonment should refrain from committee participation and from voting in the House until the presumption of innocence is reinstated or until reelected. 121 CONG. REC. 10339-45, 94th Cong. 1st Sess., Apr. 16, 1975 [H. Res. 46].

§ 1.6 The House agreed to a resolution, reported from the Committee on Rules, providing for consideration in the House as in Committee of the Whole of a resolution reported from the Committee on Standards of Official Conduct amending Rule XLIII, the Code of Official Conduct. 121 CONG. REC. 10339-45, 94th Cong. 1st Sess., Apr. 16, 1975 [H. Res. 396, providing for consideration of H. Res. 46, adding a new clause 10 to Rule XLIII].

§ 1.7 While the Committee on Standards of Official Conduct has jurisdiction over measures relating to the Code of Official Conduct [Rule X clause 1(t)], such measures are not privileged for immediate consideration when reported by that committee; they may be considered pursuant to a special order from the Committee on Rules. 121 CONG. REC. 10339-45, 94th Cong. 1st Sess., Apr. 16, 1975 [H. Res. 396, providing for consideration of H. Res. 46, adding a new clause 10 to Rule XLIII]. *Note:* Under Rule XLIII clause 4, the

right of the Committee on Standards of Official Conduct to report privileged resolutions is limited to those involving investigations of individual Members, officers, or employees. See 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 19, 1979 [H. Res. 378], where the Chairman of the Committee on Standards of Official Conduct filed from the floor a privileged report on an investigation into the conduct of a Member. In this instance, the chairman of the committee obtained unanimous consent that the report be printed in two volumes, with volume two to be limited to 600 copies, in order to save costs, the material being otherwise available.

§ 1.8 The Speaker laid before the House a communication from the Chairman and ranking minority member of the Committee on Standards of Official Conduct, advising that a complaint had been filed with that committee by Representative Harrington (Mass.) against 16 members of the Committee on Armed Services who had voted to deny him access to committee files in contravention of Rule XI clause 2(e)(2); that four named Members were also members of the Committee on Standards of Official Conduct and were thus ineligible to adjudicate the complaint against their official conduct under Rule X clause 4(e)(2)(D); and requesting the Speaker to designate three majority Members and one minority Member to act as members of that committee during the pendency of the complaint. Pursuant to Rule X clause 4(e)(2)(D), the Speaker designated four Members to act as members of the Committee on Stantards of Official conduct in all proceedings on the complaint in the same political party ratio represented by the party affiliation of the four ineligible Members. 121 CONG. REC. 28600, 94th Cong. 1st Sess., Sept. 11, 1975.

§ 1.9 While under Rule XI clause 2(m)(1) the Committee on Standards of Official Conduct may issue subpenas during any investigation of the conduct of a Member, officer, or employee of the House (the extent of that committee's jurisdiction under Rule X), where the House mandates a possible investigation by that committee of other persons not directly associated with the House, the committee's jurisdiction is thereby enlarged and a broader subpena authority must be conferred upon the committee. 122 CONG. REC. 5166, 94th Cong. 2d Sess., Mar. 3, 1976.

§ 1.10 The House adopted a rule permitting a member of the Committee on Standards of Official Conduct to disqualify himself from participation in any committee investigation in which he certifies that he could not render an impartial decision—and permitting the Speaker to appoint a replacement for that investigation. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress]. See Rule X clause 4(e)(2). In the 96th Congress, the Speaker laid before the House a communication from the Chairman of the Committee on Standards of Official Conduct, advising that a member of that committee had submitted an affidavit of disqualification in a disciplinary investigation of another Member, which affidavit had been approved by the committee pursuant to clause 4(e)(2)(E) of Rule X, and the Speaker appointed another Member to sit with and act as a member of that committee during the investigation. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 18, 1980. And where a member of the Committee on Standards was himself the subject of an ethical inquiry, he notified the Speaker of his ineligibility under this rule and the Speaker appointed a replacement. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 5, 1980.

§ 1.11 The House amended Rule XI clause 2(e)(2) to deny nonmembers of the Committee on Standards of Official Conduct access to that committee's investigative files without prior approval of the committee. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H.

Res. 5, adopting the rules of the House for the 95th Congress].

§ 1.12 A resolution was reported from the Committee on Rules authorizing and directing (*inter alia*) the Committee on Standards of Official Conduct to investigate the alleged receipt by Members of "things of value" from the Korean Government; directing the committee to report to the House recommendations with respect to the adequacy of the Code of Official Conduct in protecting the House against improper foreign influences and the receipt of gifts; authorizing the committee to compel in such investigation the production of evidence by subpena, by deposition, or by interrogatory, such authorities to be exercised by the chairman and ranking minority member acting jointly, or by either acting separately subject to permission of the full committee; authorizing the chairman, the ranking minority member, or either of their designees to sign subpenas and interrogatories; authorizing the committee to participate by special counsel in relevant judicial proceedings; authorizing the adoption of special rules to govern the investigation; and authorizing the expenditure of funds thereafter made available for carrying out the purposes of the resolution. 123 CONG. REC. 3966–68, 95th Cong. 1st Sess., Feb. 9, 1977 [H. Res. 252, to authorize an investigation by the Committee on Standards of Official Conduct of improper influence on Members of Congress by the Republic of Korea]. *Note:* The specific authority for the taking of depositions without the two-Member quorum requirement of Rule XI clause 2(h)(1) and the issuance of interrogatories is similar to that granted to the Committee on the Judiciary in the resolution (H. Res. 803, 93d Cong. 2d Sess., Feb. 6, 1974) authorizing the impeachment investigation of former President Nixon. That resolution (H. Res. 803) also contained authority for the chairman and ranking minority member acting jointly, or separately subject to committee approval, in exercising subpena and interrogatory authority. The provision of House Resolution 252 authorizing expenditures from subsequent funding of amounts to carry out the resolution did not destroy the privilege of the resolution as reported, since it did not directly affect the contingent fund or funds already made available to committees under a "continuing resolution" (H. Res. 11), but merely directed how funds should be spent when made available in the future by the Committee on House Administration. On May 26, 1978, a resolution was reported from the Committee on International Relations (and considered and agreed to under suspension of the rules on May 31), stating the sense of the House that the Government of the Republic of Korea should fully cooperate with the House Committee on Standards of Official Conduct in its efforts to obtain testimony under oath of a former ambassador of that country to the United States, to complete its investigation under House Resolutions 252; that the House would be prepared under certain circumstances to deny or reduce nonmilitary assistance for the Republic of Korea in the event the former ambassador refused to provide the necessary information. 124 CONG. REC. 15745, 95th Cong. 2d Sess. [H. Res. 1194]. On August 3, 1978, the Chairman of the Committee on Standards of Official Conduct announced to the House that the Republic of South Korea had given assurances that its former ambassador to the United States would supply new and factual information regarding financial transactions with Members of Congress to his committee, and that the committee had agreed to accept the offer of that government to obtain and transmit to the committee responses by the former ambassador to questions submitted by the committee. 124 CONG. REC. 24217, 95th Cong. 2d Sess. In a related action, the House by a rollcall vote directed the Speaker to certify to the U.S. Attorney for the District of Columbia the refusal of a witness to answer a question at a deposition conducted by one member of the committee pursuant to House Resolution 252, which had au-

thorized the taking of depositions by one member of the committee. 124 CONG. REC. 29599, 95th Cong. 2d Sess., Sept. 15, 1978 [H. Res. 1350, proceedings against Hancho C. Kim]. For disciplinary resolutions adopted by the House following this investigation, see § 2, infra.

§ 1.13 The House adopted a resolution (originally recommended by the Commission on Administrative Review and then reported by the Committee on Rules) amending Rule XLIV, effective July 1, 1977, to require Members, officers and principal employees to make financial disclosure to the Committee on Standards of Official Conduct (reports to be open to public inspection by April 30, 1978) of information relating to income. 123 CONG. REC. 5933–42, 95th Cong. 1st Sess., Mar. 2, 1977 [H. Res. 287]. The 96th Congress adopted provisions amending Rule XLIV to incorporate title I of the Ethics in Government Act relating to financial disclosure of Members, officers, and employees as a rule of the House, and to require annual printing of financial disclosure reports of Members. At the same time, Rule X clause 1(t) was amended to designate the Committee on Standards of Official Conduct as the committee referred to in title I of the Ethics in Government Act to review financial disclosure reports of Members, officers, and employees. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. *Note:* Title I of the Ethics in Government Act is a codification of Rule XLIV as amended by the 95th Congress.

§ 1.14 In the 95th Congress, the House adopted a resolution amending clause 4, Rule XLIII (originally recommended by the Commission on Administrative Review and reported from Committee on Standards of Official Conduct) prohibiting Members, officers and employees from accepting certain gifts aggregating $100 or more from persons having direct interest in legislation before Congress or from foreign nationals. The resolution also amended clause 7 of Rule XLIII to eliminate an exception in that clause relating to political fundraising events, thereby requiring that all proceeds from such events be considered campaign contributions; and it added a new Rule XLV prohibiting unofficial office accounts in Members' offices. The resolution prohibited conversion of campaign funds to personal use by amending clause 6, Rule XLIII, and it added a new Rule XLVII to provide that after January 1, 1979, no Member may have outside earned income in excess of 15 percent of salary nor receive honoraria in excess of a specified amount. 123 CONG. REC. 5933–42, 95th Cong. 1st Sess., Mar. 2, 1977 [H. Res. 287].

§ 1.15 The Chairman of the Select Committee on Ethics (see Ch. 17, infra) inserted in the *Congressional Record* the text of seven advisory opinions issued by that committee relating to the acceptance and use by Members of gifts, campaign contributions and private contributions. 123 CONG. REC. 15449, 95th Cong. 1st Sess., May 18, 1977. *Note:* The Select Committee on Ethics, created by House Resolution 383, March 9, 1977, was authorized by that resolution to issue advisory opinions respecting the application of Rules XLIII through XLVII.

§ 1.16 In the 95th Congress, the House adopted Rule XLVII, prohibiting Members from earning outside income in excess of 15 percent of their congressional salary, and barring the acceptance of any honorarium of more than $750 in value. 123 CONG. REC. 5942, 95th Cong. 1st Sess., Mar. 2, 1977 [H. Res. 287]. The 96th Congress adopted provisions amending this rule to increase the limit on honorariums from $750 to $1,000. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. In 1979, the Senate adopted (by voice vote) a resolution postponing until January 1, 1983, the provisions of Senate Rule XLIV, prohibiting Members of the Senate from earning outside income in excess of 15 percent of their congressional salary. 125 CONG. REC. p.

....., 96th Cong. 1st Sess., Mar. 8, 1979. In the 96th Congress, the Chairman of the Committee on Standards of Official Conduct, on behalf of the committee, gave the following interpretations of Rule XLVII: (1) the limitation on outside earned income contained in clause 1 was raised from $8,743.60 in calendar year 1979 to $9,099.38 in calendar year 1980, since Members' salaries had been increased by a cost-of-living adjustment and the limitation is calculated at 15 percent of the Member's salary; and (2) that honoraria (limited by clause 2 to $1,000 per honorarium) were exempt from Rule XLVII if assigned to a tax-exempt charity (paid directly by the paying organization to the charity), that honoraria assigned to charity were to be reported as gross income but could be deducted as charitable contributions, and that any honorarium returned by the Member to the payor before the close of the calendar year would not be counted against the earned income limitation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 19, 1979.

§ 1.17 The 96th Congress adopted provisions amending Rule X clause 4(e)(2) to prohibit members and employees of the Committee on Standards of Official Conduct from publicly disclosing information concerning a complaint submitted to the committee unless specifically voted by full committee. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5].

§ 1.18 The 96th Congress adopted provisions amending Rule XLIII to prohibit Members from allowing use of official House of Representatives letterheads by any non-House individual or group. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5].

§ 1.19 A Member who knowingly authorizes increases in the salary of an employee on his clerk-hire staff in order to enable that employee to pay certain of the Member's personal expenses is guilty of misusing his clerk-hire allowance in violation of clauses 1 and 8 of Rule XLIII, which require a Member to reflect creditably on the House and prohibit retention of employees from clerk-hire allowances who do not perform duties commensurate with compensation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 31, 1979 [In re Charles C. Diggs, Jr.]. For disciplinary action relative to Rep. Diggs, see § 2, infra.

§ 1.20 The Majority Leader inserted in the *Congressional Record* a press statement by the Speaker in response to press accounts of an undercover investigation by the Federal Bureau of Investigation involving alleged bribes of Members of Congress (ABSCAM), asserting that both the Committee on Standards of Official Conduct and the Department of Justice should pursue a complete investigation. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 4, 1980. Subsequently, a resolution was reported by the Committee on Rules authorizing and directing the Committee on Standards of Official Conduct to conduct an inquiry into such alleged improper conduct; authorizing subpenas and other process to be exercised by the Chairman and the ranking minority member, or either acting alone (subject to a committee decision if referred thereto); testimony or evidence taken by deposition to be deemed executive session material; authorized to coordinate and enter into agreements, consistent with the rules of the House, with the Justice Department; authorizing restricted access, to information received from the Justice Department, only to such committee members and other persons as the committee determines; authorizing participation, by special counsel, in any judicial proceeding concerning or relating to the inquiry; and authorizing special rules of committee procedure. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 27, 1980 [H. Res. 608].

§ 1.21 Rule 14 of the rules of the Committee on Standards of Official Conduct, adopted in the 96th Congress, provides that where a Member, officer, or employee is convicted of

a "criminal offense" for which a sentence of a term of at least one year may be imposed, the committee shall follow certain procedures; in 1980, the committee voted to interpret that rule to mean a finding of guilt by a jury (and not the subsequent act of sentencing by the judge). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 2, 1980 [H. Res. 794, In re Michael J. Myers].

§ 2. Punishment; Expulsion, Censure, and Reprimand

§ 2.1 While a two-thirds vote is required to expel a Member, only a majority is required to exclude a Member who has been permitted to take the oath of office pending a final determination by the House of his right to the seat. 113 CONG. REC. 17, 90th Cong. 1st Sess., Jan. 10, 1967.

§ 2.2 In 1967, a Representative-elect (Adam C. Powell) was temporarily denied his right to be sworn pending an investigation. 113 CONG. REC. 24-26, 90th Cong. 1st Sess., Jan. 10, 1967. The House adopted a resolution referring the question as to the right to his seat to a select committee. 113 CONG. REC. 24-26, 90th Cong. 1st Sess., Jan. 10, 1967 [H. Res. 1]. The select committee reported its recommendation (to seat Mr. Powell and then censure him) to the House on February 23, 1967. On March 1, 1967, the House amended the resolution of censure to provide for his exclusion and then adopted the resolution as amended. Mr. Powell then brought suit against the Speaker and other defendants asking that they be enjoined from enforcing the resolution by which he was excluded and seeking a writ of mandamus directing the Speaker to administer him the oath of office. See 113 CONG. REC. 60035-42, 6048, 90th Cong. 1st Sess., Mar. 9, 1967. On May 1, 1967, the Speaker laid before the House a letter from the Clerk, advising receipt of a certificate showing the election of Mr. Powell to fill the vacancy created when the House, on March 1, 1967, adopted House Resolution 278, excluding him from membership and declaring his seat vacant. 113 CONG. REC. 11298, 90th Cong. 1st Sess. *Note:* In response to a parliamentary inquiry, the Speaker indicated that if Mr. Powell appeared to take the oath and was again challenged, the House would have to determine, at that time, what action it should take. Mr. Powell did not appear to take the oath following his reelection to the 90th Congress. On June 16, 1969, the U.S. Supreme Court in *Powell* v *McCormack* ruled that in judging the qualifications of its Members, the House may not, by a resolution of exclusion, add qualifications to those expressly stated in the United States Constitution. *Powell* v *McCormack,* 395 U.S. 486 (1969).

§ 2.3 Adam C. Powell having been reelected to the 91st Congress, the House agreed to a resolution (1) authorizing the Speaker to administer the oath to him, (2) providing for a fine of $25,000 to be deducted on a monthly basis from his salary, (3) reducing his seniority to that of a freshman (thus eliminating consideration of any prior service in the computation of seniority) and (4) specifying that Mr. Powell must take the oath before January 15 or his seat would be declared vacant. 115 CONG. REC. 29, 34, 91st Cong. 1st Sess., Jan. 3, 1969 [H. Res. 2].

§ 2.4 The House has adopted a resolution expressing the sense of the House that Members convicted of certain crimes should refrain from participation in committee business and from voting in the House until the presumption of innocence is reinstated or until re-elected to the House. 119 CONG. REC. 36943, 36944, 93d Cong. 1st Sess., Nov. 14, 1973 [H. Res. 700, providing for consideration of H. Res. 128]. *Note:* A similar resolution (H. Res. 933, 92d Congress) had been reported in the preceding Congress but had not been called up in the House. That resolution had been prompted by the conviction by a federal court

of a Representative for receiving a bribe, but when he voluntarily agreed not to participate in House or committee proceedings, the resolution was not called up in the House. Such resolutions are not privileged under clause 23 Rule XI, as they do not recommend action by the House with respect to an individual Member.

§ 2.5 The House reprimanded a Member for certain conduct occurring during prior Congresses which either involved failure to make proper financial disclosures (in violation of a House rule in effect at that time) or conflicts of interest (in violation of a generally accepted standard of ethical conduct applicable to all government officials—though not enacted into permanent law at the time of the violation), but declined to punish that Member for other prior conduct involving a conflict of interest (in violation of the same general ethical standard deemed by the House to be then in effect) based upon the extended lapse of time and the apparent knowledge of those events by constituents who thereafter re-elected him to the House. 122 CONG. REC. 24380, 94th Cong. 2d Sess., July 29, 1976 [H. Res. 1421, relative to the investigation of a complaint against Mr. Robert L. F. Sikes (Fla.)]. In the 95th Congress, the House reprimanded three sitting Members for official misconduct which had occurred in a prior Congress, although in two of those instances, misrepresentations concerning that conduct were made during a committee investigation in the current Congress. 124 CONG. REC. 36976, 95th Cong. 2d Sess., Oct. 13, 1978.

§ 2.6 A resolution (H. Res. 1392) calling for the expulsion of a Member was reported adversely by the Committee on Standards of Official Conduct where the Member had been convicted of bribery under California law for acts occurring while he served as a county tax assessor and before his election to the House, and where his appeal from the conviction was still pending; the committee found that although the conviction related to the Member's moral turpitude, it did not relate to his official conduct while a Member of Congress. H. Rept. No. 1478, 94th Cong. 2d Sess. (1976), entitled In re Andrew J. Hinshaw. [H. Res. 1392 was subsequently laid on the table without debate on Oct. 1, 1976.]

§ 2.7 A resolution to expel a Member of the House presents a question of the privileges of the House (125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 30, 1979 [H. Res. 391]), and may be called up by any Member as privileged under the Constitution and under Rule IX whether or not it has been reported favorably or adversely from committee. 122 CONG. REC. 35111, 94th Cong. 2d Sess., Oct. 1, 1976 [H. Res. 1392].

§ 2.8 One hour of debate is permitted in the House on a resolution reprimanding a Member, and the Member calling up the resolution may yield time to the Member being punished. 122 CONG REC. 24382, 94th Cong. 2d Sess., July 29, 1976 [H. Res. 1421, relative to the investigation of a complaint (discussed in § 2.5, supra) against Mr. Robert L. F. Sikes]. *Note:* The Committee on Standards of Official Conduct accompanied its report with a resolution "adopting the report," since the privilege conferred upon that committee to report to the House at any time is limited to "resolutions" recommending action by the House. See Rule XI clause 4(a).

§ 2.9 Where a Member calling up a privileged resolution of censure reported from the Committee on Standards of Official Conduct was recognized for one hour, he yielded a portion of that time to the Member being censured, who, after declining to speak, yielded all his time to another Member. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 31, 1979 [H. Res. 378, In re Charles C. Diggs, Jr.].

§ 2.10 Where the Committee on Standards of Official Conduct after investigation recommends disciplinary action against a Member, it

files from the floor a privileged report with an accompanying resolution proposing the disciplinary action. But where the committee dismisses the charges, the committee files its report, for the information of the House, without an accompanying resolution. 124 CONG. REC. 34145, 95th Cong. 2d Sess., Oct. 6, 1978 [H. Res. 1414, in the matter of Mr. Charles H. Wilson (Calif.); H. Res. 1415, in the matter of Mr. John J. McFall (Calif.); and H. Res. 1416, in the matter of Mr. Edward R. Roybal (Calif.)].

§ 2.11 While a wide range of discussion is permitted during debate on a censure resolution, clause 1 of Rule XIV prohibits the use of language which is personally abusive. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 31, 1979 [H. Res. 378, In re Charles C. Diggs, Jr.]. It has also been ruled that debate on a resolution reprimanding a Member is confined to the official conduct of the Member and may not extend to the conduct or criminal convictions of other Members or other former Members. 124 CONG. REC. 36976, 95th Cong. 2d Sess., Oct. 13, 1978 [H. Res. 1414, In re Charles H. Wilson]. *Note:* Although debate must avoid personalities under Rule XIV clause 1, discussion as to a Member's official conduct is appropriate where a disciplinary resolution relating to that Member is pending. Since an accurate record of disciplinary proceedings is important, an effort has been made to limit revisions or extensions of remarks actually delivered during floor debate. Insertions are permitted (since they are clearly indicated by a "bullet" in the *Congressional Record* , but permission has been denied for revisions. See 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 660, In re Charles H. Wilson].

§ 2.12 The House passed a privileged resolution reported from the Committee on Standards of Official Conduct, which has been authorized (see § 1, supra) to investigate whether Members had taken anything of value from representatives of South Korea, adopting a report of the committee reprimanding a Member on the basis of its finding that he had received a campaign contribution and failed to report it as required by law. 124 CONG. REC. 37005, 95th Cong. 2d Sess., Oct. 13, 1978 [H. Res. 1415, in the matter of Mr. John J. McFall (Calif.)]. On the same day, the House passed a privileged resolution reported from the committee adopting a committee report reprimanding a second Member on the basis of the committee's finding that he had failed to indicate, in a questionnaire sent to all Members by the committee, his receipt of currency and valuables worth more than $100 from representatives of the Government of South Korea. 124 CONG. REC. 36976, 95th Cong. 2d Sess., Oct. 13, 1978 [H. Res. 1414, in the matter of Mr. Charles H. Wilson (Calif.)]. With respect to a third Member, the House adopted a disciplinary resolution reported from the committee with an amendment converting the resolution from one of censure to one of reprimand. 124 CONG. REC. 37009, 95th Cong. 2d Sess., Oct. 13, 1978 [H. Res. 1416, in the matter of Mr. Edward R. Roybal (Calif.)]. *Note:* In this instance, to a privileged resolution censuring a Member and adopting a report of the committee finding that he had (1) received a campaign contribution and failed to report it as required by law, (2) converted a campaign contribution to personal use, and (3) testified falsely to the committee under oath, the House adopted an amendment in the nature of a substitute (offered pursuant to a successful motion to recommit with instructions) simply reprimanding the Member, and adopted the resolution as amended.

§ 2.13 A resolution to expel a Member may be called up as a question of the highest privilege but may be referred to committee pursuant to Rule XVI clause 4. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 1, 1979 [H. Res. 142, to expel Charles C. Diggs, Jr.]. In one instance in the 96th Congress in response to a

one-minute speech in which a Member announced his intention to offer a resolution to expel another Member unless he refrained from voting on any matter before the House pending an investigation into his official conduct, the Majority Leader took the floor to advise that he would move to refer any such resolution to the Committee on Standards of Official Conduct in order that the Member under investigation be permitted to fully represent his constituents pending the exercise of his full legal and constitutional rights and the completion of the committee investigation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 28, 1979. Subsequently, when the resolution was offered on the floor, the House adopted a motion to refer it to the Committee on Standards of Official Conduct. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 1, 1979 [H. Res. 142, to expel Charles C. Diggs, Jr.].

§ 2.14 A Member who during a prior Congress was unjustly enriched by clerk-hire employees' payments of the Member's personal expenses was censured by the House and ordered to repay the amount of the unjust enrichment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 31, 1979 [H. Res. 378, In re Charles C. Diggs, Jr.]. In this instance, the censure resolution, reported from the Committee on Standards of Official Conduct, ordered the Member to execute as repayment an interest-bearing promissory note payable to the Treasury, and required his employees to certify to the committee that clerk-hire funds be received in compliance with House rules.

§ 2.15 In accordance with the provisions of a resolution imposing censure, the Speaker pronounced censure from the Chair by reading the censure resolution. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 31, 1979 [H. Res. 378, In re Charles C. Diggs, Jr.].

§ 2.16 In 1979, the Senate adopted a resolution denouncing a Senator for reprehensible conduct in administering the financial affairs of his office. The resolution, reported from the Senate Select Committee on Ethics, contained provisions: (1) stating the judgment of the Senate that Senator Herman Talmadge, of Georgia, knew, or should have known, and was therefore responsible for, acts and omissions regarding unsigned vouchers for the use of Senate funds, inaccurate financial disclosure statements, and unreported campaign funds and receipts; (2) stating the judgment of the Senate that the Senator's conduct was reprehensible and tended to bring the Senate into dishonor and disrepute and was thereby denounced; and (3) requiring the Senator to reimburse to the U.S. Senate a designated monetary amount, plus interest. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 11, 1979 [S. Res. 249]. *Note:* The resolution disciplined the Senator for a course of conduct beginning well before the Senator's current term of service.

§ 2.17 The House expelled a Member, Michael J. Myers, of Pennsylvania, who had been convicted in federal court of bribery (a felony), for accepting funds to perform official duties as a Member of Congress. During debate on the resolution, Representative Myers was yielded one-half of the hour in which to speak or yield in his behalf. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 2, 1980 [H. Res. 794].

§ 2.18 During consideration of a privileged resolution reported from the Committee on Standards of Official Conduct (to censure a Member, deny him a committee or subcommittee chair, require him to present himself in the well for censure, and to adopt the report of the committee), the House rejected a motion to postpone further consideration to a day certain by a roll call vote, then adopted a motion to reconsider the vote on the motion to postpone (new evidence allegedly not before the committee having been introduced

in debate), and then adopted the motion to postpone by a division vote. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 660, In re Charles H. Wilson]. Subsequently, the House adopted the resolution censuring the Member and requiring him to present himself in the well for the public reading of the resolution, and adopted the report of the committee. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 10, 1980 [H. Res. 660].

§ 2.19 *Note:* No point of order lies, during debate on a disciplinary resolution (of censure) reported from the Committee on Standards of Official Conduct, against discussion of evidence allegedly not presented before the committee, as the Chair can only rule on the basis of relevancy in debate, and not on the admissibility of evidence which is related to the charges on which censure is based. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 660, In re Charles H. Wilson].

Chapter 13

Powers and Prerogatives of the House

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A. Introductory

§ 1. In General; As Related to the Executive Branch

§ 1.1 The House agreed to a resolution confirming the nomination of Representative Gerald R. Ford of Michigan (the minority leader) as Vice President of the United States, pursuant to the 25th Amendment, and then received a message from the Senate announcing that body's confirmation of the nomination. 119 CONG. REC. 39807, 39899, 39900, 93d Cong. 1st Sess., Dec. 6, 1973 [H. Res. 735].

§ 1.2 The House agreed to a resolution confirming the nomination of Nelson A. Rockefeller, of New York, as Vice President of the United States, and then received a message from the Senate, laid down by the Speaker, announcing that body's confirmation of Mr. Rockefeller on Dec. 10, 1974. 120 CONG. REC. 41516, 41517, 93d Cong. 2d Sess., Dec. 19, 1974 [H. Res. 1511]. *Note:* As in the confirmation proceedings of Vice President Ford, the House did not receive a message from the Senate relating the Senate's action until House action had been completed. In this instance the Speaker laid the message before the House to be read by the Clerk.

§ 2. Military Interventions; War

§ 2.1 A House joint resolution relating to the war powers of the Congress and the President was passed by the House and Senate over the President's veto. See Public Law No. 93-148. 119 CONG. REC. 36202, 36221, 36222, 93d Cong. 1st Sess., Nov. 7, 1973 [H.J. Res. 542].

§ 2.2 The House agreed to a resolution establishing a select committee of the House to investigate U.S. military involvement in Southeast Asia. 116 CONG. REC. 18656, 18668, 91st Cong. 2d Sess., June 8, 1970 [H. Res. 976]. See also 116 CONG. REC. 19195, 91st Cong. 2d Sess., June 10, 1970 [H. Res. 1071, providing funds for the select committee created by H. Res. 976].

§ 2.3 The House agreed to a resolution expressing support for the President's efforts to achieve a "just peace in Vietnam" after adopting a motion to recommit with instructions relating to the treatment of U.S. prisoners of war by North Vietnam. 115 CONG. REC. 36536, 91st Cong. 1st Sess., Dec. 2, 1969 [H. Res. 613].

§ 2.4 A Member inserted in the Record a resolution adopted by the Democratic Caucus on North Vietnamese and U.S. military involvement in Indochina. 118 CONG. REC. 13615, 92d Cong. 2d Sess., Apr. 20, 1972.

§ 2.5 Section 4 of the War Powers Act, Public Law No. 93-148, requires the President to submit to Congress a report setting forth certain facts relative to the introduction of U.S. troops when such troops are introduced in the absence of a declaration of war. The Speaker laid before the House a communication from the President submitted pursuant to this section regarding evacuation of U.S. nationals from Cambodia, which was read, referred to the Committee on International Relations in accordance with section 5 of that act, and ordered printed. 121 CONG. REC. 10065, 94th Cong. 1st Sess., Apr. 14, 1975.

§ 2.6 The Speaker laid before the House a communication from the President concerning the use of troops in the evacuation of persons from South Vietnam, which was read, referred, and ordered printed. 121 CONG. REC. 12803, 12804, 94th Cong. 1st Sess., May 1, 1975.

§ 2.7 A communication from the President (who was out of the country) in the form of a telegram, not signed and not delivered by mes-

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senger, transmitting a report to the House on the participation of U.S. naval vessels in the evacuation of refugees in South Vietnam, pursuant to section 4(a)(2) of the War Powers Act, was referred as an executive communication to the Committee on International Relations, but not printed in full in the Record. 121 CONG. REC. 9191, 94th Cong. 1st Sess., Apr. 7, 1975.

§ 2.8 The Speaker laid before the House and referred to the Committee on Foreign Affairs a communication from the President reporting to the Congress, pursuant to the War Powers Resolution, Public Law No. 93-148, that U.S. Armed Forces had been introduced into the airspace and territory of a foreign nation (Iran), in order to attempt an unsuccessful rescue of American hostages held there. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Apr. 28, 1980.

§ 3. Revenue and Appropriation Measures—Senate Bills

§ 3.1 "All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other bills." U.S. Const. Art. I, section 7.

§ 3.2 Infringement of the Senate on the constitutional prerogative of the House to initiate revenue measures may be raised in the House as a matter of privilege. 117 CONG. REC. 12991, 92d Cong. 1st Sess., May 3, 1971 [H. Res. 414, returning S. 860]. The House has also asserted the privilege with respect to a Senate amendment to a House amendment to a Senate bill. 125 CONG. REC p. ....., 96th Cong. 1st Sess., Nov. 8, 1979.

§ 3.3 The Senate having passed a bill relating to the Trust Territory of the Pacific Islands containing one title amending the tariff schedules of the United States, the House held that the Senate's action constituted a violation of Article I, Section 7 of the Constitution, and adopted a resolution returning the bill to the Senate. 117 CONG. REC. 12991, 92d Cong. 1st Sess., May 3, 1971 [H. Res. 414, returning S. 860]. Similar action was taken where the Senate amended a House amendment to a Senate bill relating to antitrust immunities of oil companies with a provision subjecting to congressional veto any presidential decision to impose import fees or quotas. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 8, 1979 [H. Res. 478].

§ 3.4 The House having returned a Senate bill containing a provision which infringed upon the constitutional power of the House to originate revenue measures, the Senate, by unanimous consent, reconsidered the vote by which the bill had passed, adopted an amendment deleting the objectionable provision, and then passed the bill as so amended. 117 CONG. REC. 13273, 92d Cong. 1st Sess., May 4, 1971 [S. 860, relating to the Trust Territory of the Pacific Islands].

§ 3.5 A Senate-passed bill authorizing the President to raise the duty on fishery products was held to be an infringement of the privilege of the House, and was returned to the Senate. 111 CONG. REC. 11149, 89th Cong. 1st Sess., May 20, 1965 [H. Res. 397, returning to the Senate S. 1734].

§ 3.6 Where the Senate had passed a bill which possibly infringed upon the House's constitutional prerogative to originate revenue legislation—a bill to authorize the President to extend certain privileges and immunities (including exemptions from customs duties and importation taxes) to the Organization of African Unity—the House passed and messaged the Senate an identical bill reported from the Committee on Ways and Means, and the Senate bill was held at the Speaker's table. 119 CONG. REC. 36006-08, 93d Cong. 1st Sess., Nov. 6, 1973 [H.R. 8219, S. 1526, to amend the International Organizations Immunities Act].

Note: The Senate bill clearly "affected" revenue, since it granted a limited immunity from taxation, though it did not directly "raise" revenue. Similarly, the House declined to act on a Senate joint resolution making continuing appropriations for several government agencies. 123 CONG. REC. 33367, 95th Cong. 1st Sess., Oct. 12, 1977 [S.J. Res. 91]. *Note:* After the Senate joint resolution was messaged to the House, the House considered a House joint resolution (H.J. Res. 626) making the appropriations, pursuant to a special rule (H. Res. 829). Since time was of the essence and the leadership did not wish to raise directly the question of the prerogatives of the two Houses, the House held the Senate joint resolution at the Speaker's table and passed the House version instead; the House joint resolution became Public Law No. 95-130.

§ 3.7 A Senate joint resolution making an appropriation out of the general funds of the Treasury was held to be an infringement of the privileges of the House, and was returned to the Senate. 108 CONG. REC. 23014, 87th Cong. 2d Sess., Oct. 10, 1962 [H. Res. 831, returning S.J. Res. 234 to the Senate].

§ 3.8 On the ground that it infringed upon the prerogative of the House to originate bills for raising revenue, the House ordered the return of a Senate joint resolution authorizing the President to make a redetermination of the Cuban sugar quota for 1960 [which involved a tariff as well as an incentive payment]. 106 CONG. REC. 15818, 86th Cong. 2d Sess., July 2, 1960.

§ 3.9 Since the Constitution requires that bills raising revenue originate in the House [Art. I, section 7], the House has on occasion refused to add a revenue-raising amendment to a pending Senate bill, preferring to postpone further consideration of the Senate bill while sending a House bill, containing the revenue provision, to the Senate. 116 CONG. REC. 14928, 14951, 15150, 91st Cong. 2d Sess., May 11, 12, 1970.

§ 3.10 Since the Constitution requires that bills raising revenue originate in the House (Art. I, section 7), the House, after it had amended a Senate bill to insert provisions of a similar House-passed bill which included a revenue raising title, vacated the proceedings whereby the House bill had been laid on the table, passed the bill again, and messaged it and the Senate bill to the Senate. 116 CONG. REC. 40096, 91st Cong. 2d Sess., Dec. 7, 1970 [H.R. 19504, authorizing appropriations for construction of certain highways].

§ 3.11 The Senate has adopted a resolution asserting that the power to originate appropriation bills is not exclusively in the House of Representatives but is shared by the Senate and suggesting that an appropriate commission be established to study clause 1, section 7, of the Constitution. 108 CONG. REC. 23470, 87th Cong. 2d Sess., Oct. 13, 1962. See also 108 CONG. REC. 12898, 12905-11, 87th Cong. 2d Sess., July 9, 1962, for a resolution of the Senate Committee on Appropriations, setting forth areas of dispute between it and the House Committee on Appropriations, and resolving that among the issues to be discussed or negotiated between them is the power of the Senate to originate appropriation bills.

§ 3.12 After passage of a House bill containing, inter alia, amendments to the Internal Revenue Code which directly appropriated funds in the Treasury but which did not "raise revenue" within the meaning of article I, section 7 of the Constitution by imposing a tax, the House by unanimous consent, considered a similar Senate bill, which did not contain comparable provisions, and then amended the Senate bill with the House-passed language. 120 CONG. REC. 27514, 27524, 27530, 27531, 93d Cong. 2d Sess., Aug. 8, 1974 [S. 3044, Federal Election Campaign Act of 1974].

§ 3.13 *Note:* The Speaker made reference to certain procedural safeguards available in the House against the inclusion of appropriations

in Senate bills. The safeguards referred to included (1) possible points of order under § 401 of the Congressional Budget Act, where the Senate provision constitutes new spending authority not subject to amounts specified in advance in appropriation acts, and (2) returning Senate bills which contain appropriations to the Senate and by asserting the constitutional prerogative of the House to originate "revenue" measures, a term construed under the precedents to include at least "general appropriation bills." See 122 CONG. REC. 21634, 94th Cong. 2d Sess., June 30, 1976.

§ 3.14 Where the two Houses were simultaneously considering separate concurrent resolutions disapproving most-favored-nation trade status under the Trade Act of 1974, it was agreed in the Senate, by unanimous consent, that final disposition of the concurrent resolution should await initial House action so that the Senate could vote on the House-numbered concurrent resolution, thereby preserving the constitutional prerogative of the House to originate "revenue-affecting" legislation. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 22, 1980 [S. Con. Res. 47].

§ 4. — Senate Amendments to House Bills

§ 4.1 A question of constitutional privilege relating to the sole power of the House to originate revenue measures and alleging that the Senate, by its amendment to a House bill, has violated article I, section 7 of the Constitution, may be raised at any time when the House is in possession of the papers; and the question has been presented pending the motion to call up a conference report on the bill. 114 CONG. REC. 17970, 17977, 90th Cong. 2d Sess., June 20, 1968 [H.R. 15415, Revenue and Expenditure Act of 1968].

§ 4.2 A Senate amendment of a House bill imposing an additional tax under the Railroad Retirement Tax Act and the Internal Revenue Code was held to be an infringement of the privileges of the House and the bill, as amended, was returned to the Senate. 111 CONG. REC. 23632, 89th Cong. 1st Sess., Sept. 14, 1965 [H. Res. 578, returning to the Senate H.R. 3157 with the Senate amendment thereto].

§ 4.3 The Senate having amended a House bill relating to excise tax rates by adding a general surtax on income, the House refused to hold that the Senate's action constituted a violation of article I, section 7 of the Constitution, and laid on the table a resolution raising the matter as a question of the privileges of the House. 114 CONG. REC. 17970, 17977, 90th Cong. 2d Sess., June 20, 1968 [H.R. 15415, Revenue and Expenditure Act of 1968].

§ 4.4 In order not to infringe upon the prerogative of the House under article I, section 7 of the Constitution, the Senate repassed a House bill with an amendment in the nature of a substitute deleting a Senate amendment making references to the Internal Revenue Code. 124 CONG. REC. 30960, 95th Cong. 2d Sess., Sept. 22, 1978 [H.R. 8200, to establish a uniform law on bankruptcy].

§ 5. Enforcement of Subpenas; Contemptuous Conduct

§ 5.1 Contempt citations based on the refusal of witnesses to testify before a committee of the House are certified to the appropriate U.S. Attorney by the Speaker pursuant to a House resolution. 116 CONG. REC. 33264-69, 33278, 91st Cong. 2d Sess., Sept. 23, 1970 [H. Res. 1220, certifying Arnold S. Johnson to be in contempt of the House].

§ 5.2 The House agreed to a privileged resolution directing the Speaker to certify to the appropriate U.S. Attorney the refusal of a witness to be sworn to testify before a subcommittee of the Committee on Armed Services.

119 CONG. REC. 28960-63, 93d Cong. 1st Sess., Sept. 10, 1973 [H. Res. 536, certifying G. Gordon Liddy to be in contempt of the House]. The Member offering such a resolution controls one hour of debate thereon. 124 CONG. REC. 29599, 95th Cong. 2d Sess., Sept. 15, 1978 [H. Res. 1350, proceedings against Hancho C. Kim].

§ 5.3 The House agreed to a resolution directing the Speaker to certify a report of the Committee on Un-American Activities relating to the refusal of a witness to testify and his departure without leave. 112 CONG. REC. 27439-48, 27481-85, 89th Cong. 2d Sess., Oct. 18, 1966. For a resolution providing that the Speaker certify to a U.S. Attorney a committee report relating the refusal of a witness to comply with a subpena duces tecum, see 112 CONG. REC. 1742-54, 89th Cong. 2d Sess., Feb. 2, 1966 [H. Rept. No. 1241, H. Res. 699, contempt proceedings against certain alleged members of the Ku Klux Klan].

§ 5.4 Where a quorum failed to vote on a resolution directing the Speaker to certify to a U.S. Attorney a report of the Committee on Un-American Activities, the House adjourned and the question on agreeing to the resolution became the unfinished business on the following day. 112 CONG. REC. 27512, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Res. 1062].

§ 5.5 A resolution directing the Speaker to certify to the U.S. Attorney the refusal of a witness to respond to a subpena issued by a House committee may be offered from the floor as privileged, and a committee report to accompany the resolution may therefore be presented to the House without regard to the three-day availability requirement for other reports. 117 CONG. REC. 24720-23, 92d Cong. 1st Sess., July 13, 1971 [H. Rept. No. 92-349, report of the Committee on Interstate and Foreign Commerce on the refusal of Frank Stanton, president of CBS, to respond to a subpena duces tecum].

§ 5.6 The House may adopt a motion recommitting a resolution certifying the contempt of a committee witness to the committee which reported the contumacious conduct. 117 CONG. REC. 24723, 24752, 92d Cong. 1st Sess., July 13, 1971 [H. Res. 534].

§ 5.7 The Speaker informs the House when, pursuant to certain resolutions of the House, he certifies contempt cases to a U.S. Attorney. 112 CONG. REC. 2290, 89th Cong. 2d Sess., Feb. 7, 1966. See 105 CONG. REC. 17, 86th Cong. 1st Sess., Jan. 7, 1959, where certification of contempt cases to U.S. Attorneys following adjournment *sine die* of the 85th Congress was announced by the Speaker to the 86th Congress.

§ 5.8 The Chairman of the Select Committee on Intelligence filed from the floor a privileged report from that committee recommending that the Speaker certify the contempt of Secretary of State Kissinger (for refusal to comply with subpenas duces tecum issued from that committee) to the U.S. Attorney pursuant to 2 USC § 194. 121 CONG. REC. 39053, 94th Cong. 1st Sess., Dec. 8, 1975. Subsequently this report was recommitted by unanimous consent to the select committee. 121 CONG. REC. 39730, 94th Cong. 1st Sess., Dec. 10, 1975. *Note:* Earlier subpenas from the select committee, issued Sept. 12, 1975, and directed to the CIA were initially refused compliance by that agency based upon the claim that classified information furnished the House would be improperly released under House rules and procedures (not based on claims of executive privilege). On Sept. 29, 1975, the select committee directed the chairman to request the Committee on Rules to report a rule making in order consideration of a resolution expressing the sense of the House that the requested material should be handed over to the select committee (tantamount to a resolution of inquiry). The resolution was not introduced since the select committee has no legislative jurisdiction. Thus the provisions of Rule XXII

clause 5 on privilege accorded to resolutions of inquiry would not apply. The select committee, prior to a Committee on Rules hearing on Sept. 30, sent representatives to the White House where they were permitted to examine the requested material and reached agreement on its submittal to the House select committee. When that material, with some deletions, was turned over on Oct. 1 or 2, the select committee declined to pursue its resolution before the Committee on Rules. The chairman of the select committee, Representative Pike (N.Y.), requested the recommittal of the contempt resolution because of substantial compliance with the subpenas.

§ 5.9 While under Rule XI clause 2(m)(1), the Committee on Standards of Official Conduct may issue subpenas during any investigation of the official conduct of a Member, officer, or employee of the House (the extent of that committee's jurisdiction under Rule X), where the House mandates a possible investigation by that committee of other persons not directly associated with the House, the committee's jurisdiction is thereby enlarged and a broader subpena authority must be conferred upon the committee. 122 CONG. REC. 5165, 5166, 94th Cong. 2d Sess., Mar. 3, 1976.

§ 5.10 The Chairman of the Committee on House Administration called up as privileged a resolution reported from that committee, authorizing (*inter alia*) the Chairman of a subcommittee of the Committee on Interstate and Foreign Commerce to intervene in judicial proceedings concerning subpenas duces tecum issued by that subcommittee. The House adopted the resolution with an amendment recommended by the Committee on House Administration authorizing the subcommittee chairman to intervene on behalf of the full committee. 122 CONG. REC. 27858, 27859, 94th Cong. 2d Sess., Aug. 26, 1976 [H. Res. 1420, authorizing participation by counsel on behalf of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce in judicial proceedings concerning certain subpenas]. A resolution continuing this authority was called up as privileged in the 95th Congress. 123 CONG. REC. 13949, 95th Cong. 1st Sess., May 9, 1977 [H. Res. 334]. As to the privilege of such resolutions, see Ch. 11 § 12.22, supra. *Note:* In the case in question, United States v. American Telephone and Telegraph Co., et al., the U.S. District Court for the District of Columbia had granted summary judgment for the United States on July 30, 1976 (419 F Supp 454), enjoining AT&T from transmitting documents requested in a subpena from the oversight subcommittee, without prior authorization of the executive branch. The subpena in question was never specifically authorized by the full committee, but rather was issued by the subcommittee pursuant to a delegation of authority from the full committee to issue subpenas. Compare Rule XI clause 2(m)(2) which, as amended on January 4, 1977 [H. Res. 5, 95th Cong.], permits both committees and subcommittees to issue subpenas when authorized by a majority of the members voting, but requires that compliance therewith be enforced only as authorized or directed by the House.

§ 5.11 The House by resolution authorized a select committee to make applications to courts and to bring and defend lawsuits arising out of witnesses' refusals to comply with committee subpenas and court immunity orders. In this instance, where the Select Committee on Assassinations had been established by resolution and given the authority conferred on standing committees by law to request immunity orders in court for witnesses, the Committee on Rules reported as privileged and the House adopted a subsequent resolution permitting that committee to make applications to courts and to bring and defend, but not to intervene in, lawsuits in support of committee subpenas and court immunity orders, when authorized by a majority of the committee. 123

CONG. REC. 31329, 31331, 31336, 95th Cong. 1st Sess., Sept. 28, 1977 [H. Res. 760].

§ 5.12 A resolution was reported from the Committee on House Administration and called up as privileged, authorizing the Chairman of the Committee on House Administration to intervene as a party in a pending civil action in the U.S. Court of Claims, to defend on behalf of the House the constitutional authority of Congress to make laws necessary and proper for executing its constitutional powers. The Court of Claims in this case had upheld the constitutionality of a one-house congressional veto provided for in a statute relating to federal pay which had been challenged by a group of federal judges, and the Supreme Court had been petitioned for a writ of certiorari. 123 CONG. REC. 36661, 95th Cong. 1st Sess., Nov. 2, 1977 [H. Res. 884, authorizing the Committee on House Administration to retain counsel to intervene in the case of Atkins v. U.S.]. *Note:* Counsel successfully argued on behalf of the House in the Court of Claims that the statutory one-house veto provisions were a constitutional exercise of the authority of Congress under U.S. Constitution article I, section 8, clause 12 "to make all laws which shall be necessary and proper for carrying into execution" its consititutional powers. The Justice Department had argued that the one-house veto was unconstitutional and the Court of claims sua sponte invited amici curiae briefs from the House and Senate. On January 9, 1978, the Supreme Court denied certiorari in Atkins without elaboration, letting stand the ruling of the Court of Claims that the one-house veto provision in the Federal Salary Act of 1967 was constitutional.

§ 5.13 The Chairman of the Select Committee on Assassinations filed from the floor a privileged report from that committee recommending that the House certify to the U.S. Attorney the contemptuous conduct of a witness before that committee. 124 CONG. REC. 11054, 95th Cong. 2d Sess., Apr. 24, 1978 [H. Rept. No. 95-1080, recommending that the case of Claude Powell, Jr., be certified to the U.S. Attorney for contempt of Congress]. Shortly after the filing of this report, the House agreed to a privileged resolution directing the Speaker to certify the report to the appropriate U.S. Attorney. 124 CONG. REC. 12072, 95th Cong. 2d Sess., May 2, 1978 [H. Res. 1159].

B. THE CONGRESSIONAL BUDGET PROCESS

§ 6. In General; Impoundment

§ 6.1 The Impoundment Control Act of 1974 [Pub. L. No. 93-344, § 1017(c)] authorizes privileged consideration of a "rescission bill," which is defined in § 1011(3) as a bill to "rescind, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under § 1012, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress." For an explanation of these provisions, see 120 CONG. REC. 38193, 38202, 93d Cong. 2d Sess., Dec. 4, 1974 [H.R. 17505].

§ 6.2 Congress is not precluded by § 1017 of the Impoundment Control Act from considering a bill, or a conference report thereon, rescinding budget authority outside of the 45-day time frame established in that law for the initial privileged consideration of that category of rescission bills which approve presidentially-proposed rescissions. 121 CONG. REC. 8484, 8485, 94th Cong. 1st Sess., Mar. 25, 1975 [conference report on H.R. 3260, rescinding certain budget authority].

§ 6.3 Under § 1011(3) of the Impoundment Control Act of 1974, only those amendments

to a "rescission bill" would be germane which would either (1) strike rescissions contained in the bill, (2) change the amount proposed to be rescinded but not to a figure in excess of that recommended by the President, or (3) add rescissions recommended by the President in the same message(s) covered by the bill but not in excess of the proposed amount. 120 CONG. REC. 38202, 93d Cong. 2d Sess., Dec. 4, 1974 [H.R. 17505, to rescind certain budget authority recommended in Presidential messages].

§ 6.4 Section 305(a)(1) of the Budget Act, Public Law No. 93-344, and Rule XI clause 2(l)(6) provide that a concurrent resolution on the budget shall not be considered until the 10th calendar day, excluding Saturdays, Sundays, and legal holidays, following the day on which the report on the resolution has been available to the Members. Nonetheless, by unanimous consent it was made in order to consider such a concurrent resolution on or after a certain day occurring prior to the expiration of the statutory 10-day period, thereby waiving the provisions of the statute and the rule. 121 CONG. REC. 34550, 94th Cong. 1st Sess., Oct. 31, 1975. For two other instances in which the House waived the 10-day period of availability of the report of the Committee on the Budget required by § 305(a)(1) of the Congressional Budget Act, see 122 CONG. REC. 27816, 94th Cong. 2d Sess., Aug. 26, 1976, and 123 CONG. REC. 12682, 95th Cong. 1st Sess., Apr. 28, 1977.

§ 6.5 Pursuant to § 305 of the Congressional Budget Act of 1974 [Pub. L. No. 93-344], procedures governing consideration of concurrent resolutions on the budget include (1) 10 hours of general debate equally divided between majority and minority parties, permitting a nondebatable motion to further limit general debate; (2) amendments considered under the five-minute rule; (3) the previous question considered as ordered on the resolution to final adoption at the conclusion of the amendment stage in Committee of the Whole without intervening motion except amendments to achieve mathematical consistency; and (4) no motion to recommit and no motion to reconsider vote on final adoption in order. 121 CONG. REC. 2399, 94th Cong. 1st Sess., Apr. 30, 1975 [H. Con. Res. 218, setting forth the congressional budget on an aggregate basis for fiscal 1976].

§ 6.6 Pursuant to § 305 of the Congressional Budget Act of 1974, when the Committee of the Whole rises on motion at the conclusion of consideration of a concurrent resolution on the budget, the previous question is considered as ordered, no motion to recommit is in order and it is not in order to reconsider the vote by which the concurrent resolution is adopted or rejected. 121 CONG. REC. 36159, 94th Cong. 1st Sess., Nov. 12, 1975 [H. Con. Res. 466, second concurrent resolution on the budget, fiscal 1976].

§ 6.7 Section 310(a)(2) of the Congressional Budget Act of 1974, Public Law No. 93-344, provides that the second concurrent resolution on the budget shall specify the total amount by which revenues are to be changed and direct committees having jurisdiction to determine and recommend changes in the revenue laws to accomplish such a change. Section 310(c)(1) provides that when one committee [of the House or Senate] is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House a reconciliation bill or resolution containing such recommendations. 121 CONG. REC. 35958, 94th Cong. 1st Sess., Nov. 11, 1975 [H. Con. Res. 466].

§ 6.8 A provision in the second concurrent resolution on the budget directing the House Committee on Ways and Means and the Senate Committee on Finance to submit to their respective Houses legislation decreasing revenues by a specific amount was held not to destroy the privilege of the concurrent resolu-

tion, as such directive did not confer a privileged status upon the legislation submitted pursuant thereto and thus did not involve a change in the rules of the House, and was consistent with the authority conferred in § 310(c)(1) of the Congressional Budget Act upon the Budget Committee to include such a directive in the second concurrent resolution on the budget for a fiscal year. 121 CONG. REC. 35958, 94th Cong. 1st Sess., Nov. 11, 1975 [H. Con. Res. 466, second concurrent resolution on the budget for fiscal year 1976].

§ 6.9 A bill reported from the Committee on Ways and Means, pursuant to a directive imposed upon that committee by both Houses under § 310(c)(1) of the Congressional Budget Act of 1974 to promptly report legislation reducing revenues consistent with the adopted second concurrent resolution on the budget, is considered under the general rules of the House and is accorded no special privileged status by that Act or by the concurrent resolution on the budget. 121 CONG. REC. 35958, 94th Cong. 1st Sess., Nov. 11, 1975 [H. Con. Res. 466, second concurrent resolution on the budget for fiscal year 1976]. *Note:* Rule X clause 4(i) in conjunction with the Budget Act, § 310, requires that where only one committee is directed to report a bill or resolution it shall report promptly to the House but no privilege is attached. However, when the Budget Committee directs two or more committees to consider and report certain recommendations, such recommendations are to be transmitted to the Budget Committee, and that committee then is directed, under § 310 of the Budget Act, to report a reconciliation bill or resolution carrying out such recommendations. Under Rule XI clause 4(a) such a report of the Budget Committee is privileged.

§ 6.10 The House, by adoption of the conference report on the second concurrent resolution on the budget for fiscal 1976, activated the provisions of § 311(a) of the Congressional Budget Act of 1974 which provide that after enactment of a reconciliation bill mandated by the conference report, it shall not be in order in either House to consider any bill, resolution, or amendment (1) containing new budget authority for fiscal 1976 exceeding levels in the conference report or (2) reducing revenue levels below that set forth in the conference report. 121 CONG. REC. 40204, 94th Cong. 1st Sess., Dec. 12, 1975 [conference report on H. Con. Res. 466, second concurrent resolution on the budget, fiscal 1976]. *Note:* Since the concurrent resolution contained a directive to the House Committee on Ways and Means and the Senate Committee on Finance to submit to each House a reconciliation bill to reduce federal revenues by $6.4 billion, under the provisions of § 311(a) of the Budget Act, it is the enactment of the reconciliation bill into law, and not the adoption of the concurrent resolution itself, which activates the prohibition contained in § 311 against consideration of subsequent legislation for fiscal 1976 containing new budget authority in excess of levels stated in the conference report, or containing revenue levels below that stated in the report. The two Houses later complied with the directive to reduce federal revenues by enactment of Public Law No. 94-164, wherein the Senate used H.R. 9968, passed by the House on Oct. 6, which pertained solely to the tax treatment of railroad rolling stock of foreign companies, and amended it to contain the $6.4 billion in overall tax reductions mandated by the concurrent resolution.

§ 6.11 By unanimous consent, the House may agree to consider in the House impoundment resolutions reported from the Committee on Appropriations which were privileged for consideration in Committee of the Whole under § 1017(c) of the Impoundment Control Act of 1974. 121 CONG. REC. 41940, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Res. 910, 912-916, disapproving deferrals of certain budget authorities]. *Note:* The three-day rule is not applicable to rescissions and deferrals,

Rule XI clause 2(1)(6)(B). These resolutions were considered in the House because they were not subject to amendment under the Impoundment Control Act. See also 122 CONG. REC. 5503, 94th Cong. 2d Sess., Mar. 4, 1976 [H. Res. 1058, disapproving deferral of certain budget authority].

§ 6.12 By unanimous consent, the House agreed to consider five impoundment resolutions reported from the Committee on Appropriations which were privileged for consideration in the Committee of the Whole under § 1017(c) of the Impoundment Control Act of 1974. 121 CONG. REC. 41948, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Res. 920, 922-925, disapproving deferrals of certain budget authorities]. Compare 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 6, 1979 [H.R. 2439], where by unanimous consent a rescission bill reported from the Committee on Appropriations, privileged for consideration in the Committee of the Whole pursuant to the Impoundment Control Act of 1974, was considered in the House as in the Committee of the Whole.

§ 6.13 A point of order against a resolution from the Committee on Rules, which waived provisions of § 401, Public Law No. 93-344 (which section prohibited consideration of bills providing new spending authority unless that authority is to be available only to the extent provided in appropriation acts) on the ground that the Rules Committee did not have authority to waive provisions of law, was overruled, since the provisions waived were enacted as part of the rulemaking power of the House, were part of the rules of the House, and could be waived as could any other rule of the House. 121 CONG. REC. 7676-78, 94th Cong. 1st Sess., Mar. 20, 1975 [H. Res. 337, providing for consideration of H.R. 4485, the Emergency Middle-Income Housing Act of 1975].

§ 6.14 *Note:* While under ordinary procedures, control of time for general debate in Committee of the Whole is by the chairman and ranking minority member of the reporting committee, § 305 of the Congressional Budget Act of 1974 provides that general debate on a concurrent resolution on the budget shall be equally divided between the majority and minority parties, and thus a minority Member not a committee member could control time.

§ 6.15 The Committee on Rules has reported various resolutions waiving points of order under the Budget Act. For example, the committee has reported a special order providing for consideration of a bill and (*inter alia*) waiving points of order against the consideration of the bill for (1) providing advance spending (entitlement) authority in violation of § 303(a)(4) of the Congressional Budget Act, (2) providing entitlement authority for the current fiscal year which would cause levels for budget authority and outlays in the budget resolution to be exceeded in violation of § 311(a) of the Budget Act, (3) providing new spending (contract) authority in violation of § 401(a) of the Budget Act, and (4) providing new spending (entitlement) authority effective before the fiscal year beginning in the calendar year in which reported in violation of § 401(b)(1) of the Budget Act. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 17, 1979 [H.R. 111, Panama Canal Act of 1979].

§ 6.16 Section 310(f) of the Congressional Budget Act of 1974 prohibits the consideration of a resolution providing for an adjournment *sine die* before completion of the second concurrent resolution on the budget; and the prohibition even applies to a resolution which makes such an adjournment conditional on prior completion of the second budget resolution. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980. *Note:* An appeal from the Speaker's ruling that consideration of the concurrent resolution was prohibited by § 310(f) was laid on the table, thus sustaining the Chair.

§ 7. Committee Jurisdiction; Recommendations and Reports

§ 7.1 The Congressional Budget Act of 1974 (hereinafter referred to as the Budget Act) established a standing Committee on the Budget in each House. Section 306 of the Budget Act gives the Budget Committee exclusive jurisdiction over any bill, resolution, or amendment which deals with any matter covered by a "concurrent resolution on the budget." Section 310 provides for the reporting by the Budget Committees of reconciliation bills or resolutions involving the actions of two or more committees called for in the second concurrent resolution on the budget. For further discussion of the jurisdiction of the Budget Committees, see part II of H. Rept. 95-1813 [95th Cong.].

§ 7.2 Section 306 of the Budget Act prohibits the consideration of any amendment dealing with matter within the jurisdiction of the House and Senate Budget Committees if offered to a bill or resolution not reported from the Budget Committee or discharged therefrom. See 122 CONG. REC. 19097, 94th Cong. 2d Sess., June 18, 1976 [H.R. 10612, to reform the tax laws of the United States]. In this instance, to an omnibus revenue bill reported to the Senate from the Committee on Finance containing certain tax credits, an amendment expressing the sense of Congress that under the congressional budget process the continuation of tax credits would be offset by reductions in federal spending was held by the Presiding Officer of the Senate to violate § 306 of the Budget Act.

§ 7.3 A point of order against consideration under suspension of the rules of a bill prohibiting House or Senate consideration of a budget resolution or amendment thereto preventing increases in congressional salaries (on the ground that § 306 of the Budget Act precludes consideration in either House of a bill dealing with subject matter within the jurisdiction of the Committees on the Budget unless reported by those committees), was overruled without addressing the jurisdictional question, since the House may under suspension of the rules change its rules including statutory provisions of rules, at any time. 123 CONG. REC. 36310, 36311, 95th Cong. 1st Sess., Nov. 1, 1977 [H.R. 9282].

§ 7.4 *Note:* The Committee on Rules and not the Committee on the Budget has jurisdiction over resolutions to limit or extend the jurisdiction of the Committee on the Budget as well as all other committees, and over resolutions prescribing special times and methods for the consideration of legislation, including concurrent resolutions on the budget. See Rule X clause 1(q).

§ 8. Resolutions on the Budget

§ 8.1 For a general discussion of resolutions on the budget, see part I of H. Rept. 95-1813 (95th Cong.).

§ 8.2 Section 311(a) of the Budget Act prohibits the consideration in either House of any bill or amendment reducing revenues for a fiscal year below the level of revenues set forth in the second concurrent resolution on the budget adopted by both Houses for that fiscal year. See 122 CONG. REC. 34554–57, 94th Cong. 2d Sess., Oct. 1, 1976. On this occasion, in the Senate, the Chair sustained a point of order against an amendment which had the effect of reducing revenues for fiscal 1977 below the total level of revenues contained in the final concurrent resolution on the budget for that year, and while an appeal from the Chair's decision was pending the point of order was withdrawn. See also 123 CONG. REC. 6582, 95th Cong. 1st Sess., Mar. 8, 1977 [H. Res. 360, providing for consideration of H.R. 3477, the Tax Reduction and Simplification Act of 1977].

§ 8.3 *Note:* The requirement of § 310(b) of the Budget Act, as to the completion of action on the second concurrent resolution on the budget by September 15, is directory and not mandatory in nature. In one instance, the House completed final action on the second concurrent resolution on the budget on September 16, one day after the suggested completion date set forth in § 310(b). 122 CONG. REC. 30890, 94th Cong. 2d Sess., Sept. 16, 1976 [S. Con. Res. 139, second concurrent resolution on the budget, fiscal 1977]. In another instance, the Committee on Rules reported a special order providing for the consideration in the House of a Senate-passed concurrent resolution on the budget which had not been referred to or reported by the Committee on the Budget, following rejection by the House of a similar concurrent resolution reported from the Budget Committee. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 27, 1979 [H. Res. 427].

§ 8.4 The Speaker ruled that § 305(a)(2) of the Budget Act prohibits a motion to reconsider the vote whereby a concurrent resolution on the budget is agreed or disagreed to. 123 CONG. REC. 12549, 95th Cong. 1st Sess., Apr. 27, 1977 [H. Con. Res. 195, first concurrent resolution on the budget, fiscal 1978].

§ 8.5 In response to a parliamentary inquiry, the Chairman of the Committee of the Whole state that budgetary figures agreed to in the first concurrent resolution on the budget were targets only, and did not have any direct effect on existing law, such as denying the right to payments under entitlement programs. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 14, 1979 [H. Con. Res. 107].

§ 8.6 The question on final adoption of a concurrent resolution on the budget, which contained one section revising the congressional budget for the fiscal year, preceded by sections setting forth budget targets for three ensuing fiscal years as well as reconciliation instructions, and followed by a final section on reporting of certain fiscal information, was divided on the demand of a Member for separate votes on the first and final portions of the resolution and then on the separable section in between. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 7, 1980 [H. Con. Res. 307].

§ 8.7 The House (and then the Senate) agreed by motion to a compromise first concurrent resolution on the budget for fiscal 1981 containing, in addition to (1) aggregate and functional category targets for that year, (2) a public debt limit for that fiscal year to be considered separately by the House pursuant to clause 2 Rule XLIX, (3) new provisions not contained in prior resolutions but included as "other appropriate procedures" under § 301(b)(2) as follows: (a) directing several committees to recommend to their budget committees by a date certain aggregate reductions in budget and spending authority and in outlays for that fiscal year; directing committees with revenue jurisdiction to recommend revenue increases, and directing the budget committees thereafter to report to each House reconciliation bills containing those recommendations without substantive change; (b) a provision delaying certain enrollments until adoption of the second budget resolution. The House also agreed to (4) a compromise third concurrent resolution on the budget for fiscal 1980 including reconciliation instructions for that fiscal year. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 12, 1980 [H. Con. Res. 307].

§ 9. — Amendments to Resolutions

§ 9.1 Where there was pending a perfecting amendment changing several figures in a concurrent resolution on the budget, the Chair indicated in response to a parliamentary inquiry that adoption of that amendment would preclude further amendment merely changing

those amended figures, but would not preclude more comprehensive amendments changing those figures and also other portions of the resolution which had not been amended. 122 CONG. REC. 11599, 94th Cong. 2d Sess., Apr. 28, 1976 [H. Con. Res. 611, first concurrent resolution on the budget, fiscal 1977]. *Note:* The issue here was whether amendments to functional categories and/or aggregate totals could change amendments already agreed to with respect to some or all of those figures. Generally, if a limited perfecting amendment changing one functional category is agreed to, along with conforming changes in aggregate totals, another amendment further changing that category and also other functional categories not yet changed (the issue then being the relative priorities as between or among those categories) would still be in order under the rationale stated by the Chair.

§ 9.2 Pursuant to § 305(a)(3) of the Budget Act, amendments to achieve "mathematical consistency" in a concurrent resolution on the budget are in order in the House notwithstanding prior adoption by the House of amendments to the same figures. 122 CONG. REC. 11599, 94th Cong. 2d Sess., Apr. 28, 1976 [H. Con. Res. 611, first concurrent resolution on the budget, fiscal 1977].

§ 9.3 The Chairman of the Committee on the Budget offered a perfecting amendment to achieve mathematical consistency in a concurrent resolution on the budget in Committee of the Whole rather than in the House pursuant to § 305(a)(4) of the Budget Act. 122 CONG. REC. 11916, 94th Cong. 2d Sess., Apr. 29, 1976 [H. Con. Res. 611, first concurrent resolution on the budget, fiscal 1977]. *Note:* The amendment was made necessary by adoption of a substitute which increased the functional category for veterans benefits and the outlay figure in the aggregate totals but which did not adjust the deficit figure accordingly.

§ 9.4 The House amended Rule XXIII by adding a new clause 8 to provide that concurrent resolutions on the budget shall be considered as having been read for amendment (and open to amendment at any point) at the conclusion of general debate. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules for the 95th Congress].

§ 9.5 Although § 301(a)(2) of the Congressional Budget Act requires that the first concurrent resolution on the budget set forth estimates of outlays for functional categories based upon allcations of total budget outlays, under the rules of the House (Rule XXIII clause 8) such resolutions are open to amendment at any point, so that the Committee of the Whole may amend the functional categories section prior to consideration of the total budget allocations. 124 CONG. REC. 12094, 95th Cong. 2d Sess., May 2, 1978 [H. Con. Res. 559, first concurrent reolution on the budget, fiscal 1979]. In this instance, the Chairman of the Committee on the Budget objected to a unanimous-consent request by a minority member of that committee that the resolution be read for amendment by sections, which would have required amendments to be offered to the aggregate totals section prior to consideration of the functional categories section.

§ 9.6 A resolution was reported from the Committee on Rules, waiving all points of order against a (nongermane) amendment revising the fiscal 1977 congressional budget, to be offered by the Chairman of Committee on the Budget to a concurrent resolution on the budget for fiscal 1978. 123 CONG. REC. 12233, 95th Cong. 1st Sess., Apr. 26, 1977 [H. Res. 195, waiving points of order against amendment to H. Con. Res. 195, first concurrent resolution on the budget for fiscal year 1978]. Section 301(a)(6) of the Budget Act permits "such other matters relating to the budget as may be appropriate" to be included in first concurrent resolution on the budget.

§ 9.7 The Senate adopted an amendment, to a House bill temporarily extending the public debt limit, requiring the Budget Committees of the House and the Senate to report balanced budgets for fiscal years 1981 and 1982. 125 CONG REC. p. ....., 96th Cong. 1st Sess., Mar. 27, 1979 [H.R. 2534]. The Senate amendment, which was agreed to by the House, while requiring reports of balanced budgets, did not require that such proposals be included in concurrent resolutions on the budget. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 2, 1979 [H. Res. 183, providing for concurring in Senate amendments to H.R. 2534].

§ 9.8 The 96th Congress adopted provisions amending Rule XXIII clause 8 to require all amendments to concurrent resolutions on the budget to be mathematically consistent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. *Note:* Under this rule, amendments making changes in budget authority and outlay aggregate totals must be accompanied by comparable changes in functional categories. Likewise, under this new rule, a point of order will lie against an amendment to a concurrent resolution on the budget increasing the aggregates and a functional category for budget authority and outlays but not changing the amount of the deficit. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 18, 1979 [H. Con. Res. 107]. However, an amendment to a concurrent resolution which only transfers an amount of budget authority from one functional category to another—that is, reduces one category by a certain amount and adds the same amount to another category—need make no changes in the aggregates to achieve mathematical consistency pursuant to Rule XXIII clause 8 (point of order withdrawn). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 8, 1979 [H. Con. Res. 107].

§ 9.9 Where the House adopts a mathematically inconsistent amendment to a budget resolution, no point of order having been made, it is then in order to consider, pursuant to § 305(a)(6) of the Congressional Budget Act, an amendment necessary to achieve mathematical consistency throughout the resolution. The amendment may either change the functional categories to conform with the aggregates, or vice versa, and if such an amendment is offered in the Committee of the Whole and rejected, another amendment in different form to achieve mathematical consistency may be offered in the Committee of the Whole or in the House. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 14, 1979 [H. Con. Res. 107]. *Note:* Any amendment which, if adopted, requires further action by way of amendment for mathematical consistency to be achieved, cannot itself be said to be mathematically consistent. For other precedents on amendments to achieve mathematically consistency, see §§ 9.2, 9.3, supra.

§ 9.10 Concurrent resolutions on the budget may be considered in the House under a "modified closed" rule, permitting only designated amendments. For the first such rule, see H. Res. 642, 96th Cong. 2d Sess., Apr. 23, 1980.

§ 9.11 An amendment to a second concurrent resolution on the budget must be germane to the text of the resolution; and absent any demonstable relationship to a specific provison therein, the amendment must only contain matter reaffirming or revising in a germane manner the first concurrent resolution on the budget. An amendment expressing the sense of Congress that the Impoundment Control Act be repealed for the fiscal year and calling for a review of the Budget Act and the budget process, was conceded to be not germane. 126 CONG REC. p. ....., 96th Cong. 2d Sess., Nov. 18, 1980 [H. Con. Res. 448].

§ 10. — Conference Reports

§ 10.1 The Budget Act provides special procedures for the reporting and consideration of

conference reports on budget resolutions. If the House and Senate conferees are unable to agree on a budget resolution after seven days, they must report to their Houses recommending all matters in agreement and reporting all matters in disagreement. See § 305(d). In one instance, where the conferees on a Senate concurrent resolution on the budget reported in total disagreement on the House amendment in the nature of a substitute therefor, the Senate then amended the House amendment to incorporate the provisions informally agreed upon in conference (but outside the scope of the differences with respect to some functional categories). 122 CONG. REC. 30890, 94th Cong. 2d Sess., Sept. 16, 1976 [S. Con. Res. 139, second concurrent resolution on the budget, fiscal 1977]. In 1979, a point of order that conferees appointed on the second concurrent resolution on the budget for fiscal year 1980 had failed to report within seven days pursuant to the Budget Act of 1974, was withdrawn, after the Speaker pro tempore indicated that the matter was within the control of the conferees and that they were moving towards agreement. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 19, 1979 [S. Con. Res. 36].

§ 10.2 Under the Budget Act, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget must include an estimated allocation, based upon such concurrent resolution as recommended in the report, of the appropriate levels of total budget outlays and total new budget authority among each committee with jurisdiction over bills and resolutions providing such new budget authority. See § 302(a). In one instance, where there were technical errors in the estimated allocation of appropriate levels of budget outlays and total new budget authority among each committee of the House, contained in the joint statement accompanying the conference report on a concurrent resolution on the budget as required by § 302(a) of the Budget Act, the Chairman of the House Committee on the Budget, by unanimous consent, inserted a corrected estimated allocation in the Record. 122 CONG. REC. 13758, 13759, 94th Cong. 2d Sess., May 13, 1976 [S. Con. Res. 109, first concurrent resolution on the budget, fiscal 1977]. *Note:* The adoption of the conference report on a concurrent resolution on the budget by both Houses triggers the reporting requirement by all House and Senate committees of their suballocations of budget outlays and new budget authority (including new spending "entitlement" authority) among their subcommittees under § 302(b). In a similar instance in the 96th Congress, following the adoption of a motion in the Senate to amend a House concurrent resolution on the budget reported from conference in disagreement, Senate committee allocations which, under § 302 of the Congressional Budget Act, should have been included in the joint statement, were inserted in the Record by unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 23, 1979 [H. Con. Res. 107]. Likewise, by unanimous consent, the Chairman of the Committee on the Budget inserted in the Record certain committee allocations under the most recently agreed to concurrent resolution on the budget, where the statement of managers on the conference report on such resolution, filed in disagreement, reflected an informal agreement reached in conference but did not reflect subsequent actions in the two Houses on the concurrent resolution. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 4, 1979 [H. Con. Res. 107]. See 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 6, 1980, where the § 302 allocations were also put in place by unanimous consent.

§ 10.3 While under § 305(a)(4) of the Budget Act there can be up to five hours of debate on a conference report on a concurrent resolution on the budget equally divided between the majority and minority parties, where the conferees report in total disagreement, debate on

the motion to dispose of the amendment in disagreement is not covered by the statute and is instead under the general "hour" rule in the House. 122 CONG. REC. 13756, 94th Cong. 2d Sess., May 13, 1976 [S. Con. Res. 109, the first concurrent resolution on the budget, fiscal 1977] and 123 CONG. REC. 15126, 95th Cong. 1st Sess., May 17, 1977 [S. Con. Res. 19, the first concurrent resolution on the budget, fiscal 1978]. For another precedent indicating that only one hour of debate is allowed under the general rules of the House on a motion to dispose of a Senate amendment added to a budget resolution by the Senate after consideration of a conference report in disagreement, see 124 CONG. REC. 14117, 95th Cong. 2d Sess., May 17, 1978 [S. Con. Res. 80, first concurrent resolution on the budget, fiscal year 1979].

§ 10.4 A conference report, filed in total disagreement on the first concurrent resolution on the budget for the ensuing fiscal year, contained a revision of the current year budget resolution and separate House and Senate projections for balanced budget aggregates for two future fiscal years. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 21, 1979 [H. Con. Res. 107].

§ 10.5 Conferees on the second concurrent resolution on the budget for fiscal year 1980 filed a conference report in disagreement together with a joint statement indicating that the managers on the part of the Senate would offer a motion in the Senate to concur in a House amendment with an amendment containing compromise budget figures and reconciliation instructions originally passed by the Senate, and that the managers on the part of the House would then offer a motion to concur in the Senate amendment with an amendment to strike the reconciliation instructions. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 2, 1979 [S. Con. Res. 36].

§ 10.6 On the "Omnibus Reconciliation Act of 1980" considered in both Houses pursuant to the first concurrent resolution on the budget for the ensuing fiscal year, directing designated committees to report reconciliation legislation to the Budget Committees pursuant to § 310 of the Congressional Budget Act, and where those legislative committees had managed their respective portions of the bill during House consideration, the Speaker appointed five members of the Budget Committee to confer in conference on the entire bill and Senate amendment, and appointed at least six members from each legislative committee to confer in conference solely on the designated portions of the bill and Senate amendment within their respective jurisdictions. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 18, 1980 [H.R. 7755].

§ 11. First Budget Resolution; Relationship to Consideration of Bills Providing New Budget Authority, Revenue Changes, and New Spending Authority

§ 11.1 *Note:* See part I of H. Rept. 95-1813 (95th Cong.) for a discussion of the effect of adoption of the first budget resolution as prerequisite to consideration of revenue, spending, entitlement or debt legislation for the fiscal year.

§ 11.2 Section 303(a) of the Budget Act prohibits the consideration in either House of any bill or amendment thereto containing new spending (entitlement) authority which becomes effective during a fiscal year until the adoption of the first concurrent resolution on the budget for that fiscal year. 122 CONG. REC. 34074, 94th Cong. 2d Sess., Sept. 30, 1976 [Conf. Rept. on H.R. 13367, to extend the State and Local Fiscal Assistance Act of 1972]. In this instance, a conference report

containing new spending "entitlement" authority to become effective in fiscal years 1978-1980 in amounts increased over fiscal 1977 was ruled out on a point of order under § 303(a) of the Budget Act, since the first concurrent resolution on the budget for fiscal 1978 had not yet been adopted and the increased entitlements could not be considered merely continuations of entitlement authority which became effective in the fiscal year (1977) for which a concurrent resolution had been adopted. See also 123 CONG. REC. 25222, 95th Cong. 1st Sess., July 27, 1977 [H.R. 7171], where an amendment relating to the food stamp program was ruled out for the same reason. On this occasion, to a section of a committee amendment providing eligibility for benefits under the food stamp program and allowing an excess shelter-cost deduction not to exceed a certain dollar limit in computing household income, an amendment requiring an adjustment in the deduction ceiling, effective Jan. 1, 1979, to reflect changes in shelter and utility costs, was ruled out as providing new spending (entitlement) authority to become effective in a fiscal year for which a concurrent resolution on the budget had not yet been adopted, in violation of § 303(a)(4) of the Budget Act.

§ 11.3 The exception in § 303(b)—which permits the consideration of bills and amendments containing new budget authority which first becomes available in a fiscal year following that covered by the first concurrent resolution on the budget—does not apply to bills or amendments containing "new spending (entitlement) authority" for future fiscal years, and the consideration of such measures must await the adoption by both Houses of the targeting concurrent resolution on the budget for the fiscal year in question. 122 CONG. REC. 34075, 94th Cong. 2d Sess., Sept. 30, 1976.

§ 11.4 The definition of new spending "entitlement" authority contained in § 401 (c)(2)(C) of the Budget Act, and incorporated by reference into the prohibition in § 303(a) against consideration of future-year entitlement bills and amendments, includes revenue sharing spending authority in the form of entitlements. 122 CONG. REC. 34075, 94th Cong. 2d Sess., Sept. 30, 1976. *Note:* The exception from the definition of new spending authority accorded to revenue sharing programs in § 401(d)(2) does not apply to new "entitlement" authority for future fiscal years, but only to entitlements immediately vesting as defined in § 401(c)(2)(C).

§ 11.5 In the Senate in response to a parliamentary inquiry, the Chair indicated that an amendment containing new spending "entitlement" authority (supplemental security income benefits for Puerto Rico, the Virgin Islands and Guam), becoming effective in fiscal 1978, was in violation of § 303(a) of the Budget Act, which precludes consideration of such an amendment until the first concurrent resolution on the budget for the fiscal year has been adopted. 122 CONG. REC. 34551, 94th Cong. 2d Sess., Oct. 1, 1976. *Note:* Having ruled that an amendment containing new "entitlements" becoming effective in a future fiscal year would be subject to a point of order under § 303(a) of the Budget Act, the Chair indicated that a revision of that amendment vesting the entitlements just prior to the new fiscal year (in the fiscal year for which the concurrent resolution had already been adopted) might not constitute a § 303(a) violation.

§ 11.6 The Senate by overruling the decision of the Chair on a point of order determined that the Senate could, during fiscal year 1979 (but during calendar year 1978), consider bills or amendments providing revenue changes first becoming effective in fiscal year 1980 without violating § 303 of the Congressional Budget Act, which prohibits consideration of bills on amendments providing increases or decreases in revenues to become effective during a fiscal year until the first concurrent resolution on the budet for such year had been

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agreed to, but which excepts revenue changes first becoming effective in a fiscal year following the fiscal year to which the concurrent resolution applies (where the position of the House Committee on the Budget, as provided in an implementing report, would prohibit initial House consideration of such bills and amendments after the beginning of fiscal year 1979). 124 CONG. REC. 33945, 95th Cong. 2d Sess., Oct. 5, 1978 [H.R. 13511, the Revenue Act of 1978].

§ 12. Waiving Points of Order Against Future-year Spending or Revenue Legislation

§ 12.1 In several instances, the House adopted a resolution waiving points of order against consideration of a bill containing new spending (entitlement) authority to vest in a fiscal year for which a budget resolution had not yet been adopted, in violation of § 303(a) of the Budget Act. 122 CONG. REC. 7396, 94th Cong. 2d Sess., Mar. 22, 1976 [H. Res. 1090, providing for consideration of H.R. 12226, Peace Corps authorization, fiscal 1977]. See also 123 CONG. REC. 23698, 95th Cong. 1st Sess., July 19, 1977 [H. Res. 666, providing for consideration of H.R. 7171, Agricultural Act of 1977]. *Note:* In this instance, the § 303(a) Budget Act waiver was necessitated by provisions increasing crop support payments for future fiscal years. See also 123 CONG. REC. 35438, 95th Cong. 1st Sess., Oct. 27, 1977 [H. Res. 826, providing a waiver of § 303(a) of the Budget Act, and for consideration of H.R. 8200, Bankruptcy Law Revision].

§ 12.2 A resolution was reported from Committee on Rules waiving all points of order against consideration of a conference report containing "new budget authority" (to incur obligations for fiscal 1977 in advance of adoption of first concurrent resolution on the budget for that year in violation of § 303(a) of the Budget Act). 122 CONG. REC. 10811, 94th Cong. 2d Sess., Apr. 13, 1976 [H. Res. 1141, waiving points of order against a conference report on H.R. 8235, federal-aid highway authorization]. 121 CONG. REC. 40846, 94th Cong. 1st Sess., Dec. 16, 1975 [H. Res. 929, providing for consideration of H.R. 8235]; 121 CONG. REC. 41437, 41438, 94th Cong. 1st Sess., Dec. 17, 1975 [H. Res. 930, providing for consideration of H.R. 9771].

§ 12.3 A resolution waived points of order against consideration of a committee substitute containing entitlement authority for fiscal 1978 prior to the adoption of the concurrent resolution on the budget for that fiscal year (in violation of § 303(a) of the Budget Act). 122 CONG. REC. 27507, 94th Cong. 2d Sess., Aug. 24, 1976 [H. Res. 1433, providing for consideration of H.R. 14070, Guaranteed Student Loan Amendments of 1976]. *Note:* A § 303(a) waiver was necessary against the committee amendment because the amendment increased the special allowance provision of the student loan program effective October 1, 1977, and increased the income factor for interest benefits effective October 1, 1977. Thus the amendment created new entitlements to become effective in a fiscal year before the concurrent resolution on the budget for that year was agreed to, a violation of § 303(a). Section 303(b) of the Budget Act excepts new "budget authority" from the prohibitions contained in § 303(a), but does not contain a comparable exception for new "spending" authority becoming effective in future fiscal years.

§ 12.4 A resolution waived points of order against consideration of the text of another bill as amendment in the nature of a substitute containing new "entitlement" authority becoming effective in a future fiscal year prior to the adoption of the concurrent resolution on the budget for that year in violation of § 303(a) of the Budget Act. 122 CONG. REC. 27833, 27834, 94th Cong. 2d Sess., Aug. 26, 1976 [H. Res. 1467, providing for considera-

tion of H.R. 8911, Supplemental Security Income Amendments of 1976].

§ 12.5 A resolution waived points of order against consideration of a bill relating to foreign service personnel and containing new spending (entitlement) authority to become effective in a fiscal year for which a concurrent resolution on the budget had not been agreed to, in violation of §303(a) of the Budget Act. 123 CONG. REC. 13390 et seq., 95th Cong. 1st Sess., May 4, 1977 [H. Res. 537, providing for consideration of H.R. 6689, Foreign Relations Authorization Act for fiscal year 1978]. *Note:* Title II of the bill, which contained both future and immediate entitlements in relation to the foreign service personnel system, was cured by floor amendment.

§ 12.6 A resolution providing for consideration of a bill reported from the ad hoc Committee on Energy waived points of order against the consideration of the bill as containing increases in revenues to become effective in a fiscal year following the fiscal year for which a concurrent resolution on the budget had been adopted in violation of § 303(a) of the Budget Act. 123 CONG. REC. 25654, 95th Cong. 1st Sess., July 29, 1977 [H. Res. 727, providing for consideration of H.R. 8444, National Energy Act of 1977].

§ 13. Legislation Authorizing New Budget Authority—May 15 Reporting Date

§ 13.1 Section 402(a) of the Budget Act prohibits consideration in the House of a bill or resolution authorizing enactment of new budget authority for a fiscal year unless that bill has been reported from committee by May 15 preceding such fiscal year. (For a discussion of the significance of the May 15 reporting date, see Part I of H. Rept. No. 95-1813.) The House may waive this requirement in a specific case (see § 13.2, infra), and has permitted, by unanimous consent, all committees to have until midnight on the 15th to file although the House would not be in session on that date. 122 CONG. REC. 12992, 94th Cong. 2d Sess., May 7, 1976.

§ 13.2 In a number of instances, the House adopted a resolution waiving points of order against the consideration of a bill containing authorization for the enactment of new budget authority and not reported by May 15 preceding the fiscal year, in violation of § 402(a) of the Budget Act. 122 CONG. REC. 28888, 94th Cong. 2d Sess., Sept. 1, 1976 [H. Res. 1512, providing for consideration of H.R. 14886, Presidential Transition Act Amendments]; 123 CONG. REC. 6290, 95th Cong. 1st Sess., Mar. 4, 1977 [H. Res. 359, providing for consideration of H.R. 2846, the John F. Kennedy Center Act Amendments]; 123 CONG. REC. 28367, 95th Cong. 1st Sess., Sept. 9, 1977 [H. Res. 728, providing for consideration of H.R. 2176, Federal Banking Agency Audit Act]; 123 CONG. REC. 30071, 95th Cong. 1st Sess., Sept. 21, 1977 [H. Res. 620, providing for consideration of H.R. 7073, Federal Insecticide, Fungicide and Rodenticide Act]; 123 CONG. REC. 33455, 95th Cong. 1st Sess., Oct. 12, 1977 [H. Res. 815, providing for consideration of H.R. 8390, Defense Department Supplemental Authorization Act, 1978].

§ 13.3 The House adopted a resolution waiving points of order against the consideration of a Senate bill pending in the Interstate and Foreign Commerce Committee containing a fiscal year authorization not contained in the House bill and not reported by May 15 as required by § 402(a) of the Budget Act. 122 CONG. REC. 27158, 94th Cong. 2d Sess., Aug. 23, 1976 [H. Res. 1458, providing for consideration of H.R. 14032, Toxic Substances Control Act]. *Note:* A waiver of § 402(a) against the consideration of the Senate bill was necessary since the Senate bill contained an authorization for fiscal year 1977 (although the House bill did not) and was not reported in the House by

May 15, and because the Senate bill did not come within the exception of § 402(d) permitting consideration of a companion or similar bill of the Senate if the House bill is in order.

§ 13.4 The House adopted a resolution discharging the International Relations Committee from a bill and requiring immediate consideration in the House of the bill, which authorized funds for fiscal 1977 to implement a treaty. The resolution also made it in order to call up a Senate bill relating to the treaty and containing a fiscal 1977 authorization not reported by May 15 in violation of § 402(a) of the Budget Act, and waived points of order based on that violation. 122 CONG. REC. 30219, 94th Cong. 2d Sess., Sept. 14, 1976 [H. Res. 1519, providing for consideration of H.R. 14940 and S. 3557, implementation of the Treaty of Friendship with Spain]. *Note:* The House bill did not violate § 402 because it was not a new authorization for fiscal 1977, but rather an earmarking of funds already authorized by law. The Senate bill, however, provided additional 1977 authorizations, and was thus subject to a § 402 point of order.

§ 13.5 The House adopted a resolution waiving points of order against the consideration of a bill containing authorizations for the next fiscal year (1977) but reported after May 15 in violation of § 402(a) of the Budget Act. 122 CONG. REC. 33564, 33565, 94th Cong. 2d Sess., Sept. 29, 1976 [H. Res. 1580, providing for consideration of H.R 15636, Water Resources Development Act]. *Note:* A committee substitute delayed all new authorizations until fiscal 1978—a condition required by the Budget and Rules Committees in recommending the § 402(a) waiver against the original bill and its fiscal 1977 authorizations.

§ 13.6 The House adopted a resolution waiving points of order against (1) consideration of bill creating a new Department of Energy and containing authorizations immediately effective in the current fiscal year, the bill not having been reported by May 15 of the prior year in violation of § 402(a) of the Budget Act, and (2) consideration in the House of a similar Senate bill on the Speaker's table containing immediate authorizations in violation of the same provision of the Budget Act. 123 CONG. REC. 17258, 95th Cong. 1st Sess., June 2, 1977 [H. Res. 603, providing for consideration of H.R. 6804 and S. 826, Department of Energy Organization Act]. *Note:* Under § 402(d), where a House bill has been reported by May 15 prior to the fiscal year in which authorization begins, it is then in order to consider a similar or companion Senate bill notwithstanding the provisions of § 402(a). However, if points of order under § 402(a) are waived against a House bill, they must also be waived against consideration of similar or companion Senate bill.

§ 13.7 The Committee on Rules made in order an amendment in the nature of a substitute reported by the Committee on Agriculture to one bill as an amendment in the nature of a substitute to another bill reported by that committee on which consideration had begun in the Committee of the Whole pursuant to a previous special order reported from the Committee on Rules. 123 CONG. REC. 35990, 95th Cong. 1st Sess., Oct. 31, 1977 [H. Res. 830, providing for further consideration of H.R. 7073]. *Note:* As indicated in debate on the resolution, this procedure was necessitated by the Budget Act provisions requiring authorizations to be reported by May 15; basic authorizing legislation had been reported by May 15, but the more comprehensive legislation was reported later to be made in order as an amendment to the bill already under consideration.

§ 14. Measures Containing New Entitlement Authority

§ 14.1 Section 401(b) of the Budget Act prohibits consideration of any bill or amendment

(which includes a conference report—a recommended amendment) containing new spending authority defined as an entitlement where the U.S. is obligated to make payments to recipients meeting the qualifications contained in that law, if that entitlement vests prior to the fiscal year which begins during the same calendar year in which the bill or amendment has been reported. See 122 CONG. REC. 7650, 94th Cong. 2d Sess., Mar. 23, 1976 [conference report on H.R. 9803, providing additional funds for social services day care under title XX of the Social Security Act]. *Note:* In this case, though the bill had originally been reported in the House during 1975, the Senate amendment (nongermane) which contained the entitlement was not reported until 1976; it was determined that unless waived, a point of order would lie against the conference report if reported in 1976 and if it contained an entitlement which vested prior to the beginning of fiscal 1977 on October 1, 1976. Accordingly, in this instance, a resolution (H. Res. 1092) was reported from the Committee on Rules, waiving points of order against consideration of the conference report based on a violation of § 401(b).

§ 14.2 In numerous instances, the House has adopted a resolution waiving points of order against consideration of a bill containing new spending "entitlement" authority to become effective prior to the fiscal year beginning in the calendar year in which the bill is reported as proscribed by § 401(b) of the Budget Act. 122 CONG. REC. 15368-70, 94th Cong. 2d Sess., May 25, 1976 [H. Res. 1214, providing for consideration of H.R. 12945, to amend laws relating to housing and community development]. *Note:* For similar waivers, see 122 CONG. REC. 12000-02, 94th Cong. 2d Sess., Apr. 30, 1976 [H. Res. 1155, providing for consideration of H.R. 365, the Firefighters Benefits Act, and H. Res. 1156, providing for consideration of H.R. 366, the Public Safety Officers Benefits Act]; 122 CONG. REC. 27833, 27834, 94th Cong. 2d Sess., Aug. 26, 1976 [H. Res. 1467, providing for consideration of H.R. 8911, the Supplemental Security Income Amendments of 1976]; 122 CONG. REC. 29927, 29928, 94th Cong. 2d Sess., Sept. 13, 1976 [H. Res. 1432, providing for consideration of H.R. 13958, the Defense Officer Personnel Management Act]; 122 CONG. REC. 32488, 32489, 94th Cong. 2d Sess., Sept. 27, 1976 [H. Res. 1548]; 123 CONG. REC. 13884, 95th Cong. 1st Sess., May 6, 1977 [H. Res. 541, providing for consideration of H.R. 6655, the Housing and Community Development Act of 1977]; 123 CONG. REC. 23698, 95th Cong. 1st Sess. July 19, 1977 [H. Res. 666, providing for consideration of H.R. 7171, the Agricultural Act of 1977]. See also 122 CONG. REC. 27507, 94th Cong. 2d Sess., Aug. 24, 1976 [H. Res. 1433, providing for consideration of H.R. 14070, the Guaranteed Student Loan Amendments of 1976]. *Note:* The measure needed a waiver of § 401(b) of the Budget Act because it extended the Insured Student Loan Program Insurance Fund authority, through the transitional period, July 1 to September 30, 1976, creating an entitlement effective before the commencement of fiscal year 1977.

§ 14.3 It is not in order to consider an amendment, including an amendment recommended in a conference report, which provides new entitlement authority to become effective before the first day of the fiscal year beginning in the calendar year in which the bill was reported, under § 401(b) of the Budget Act. 122 CONG. REC. 32099, 94th Cong. 2d Sess., Sept. 23, 1976 [H.R. 10339, the Farmer-to-Consumer Direct Marketing Act of 1976]. In this instance, a provision in a conference report requiring the President to direct the Secretary of Agriculture to pay a fixed percentage of the cost of transporting agricultural commodities to major disaster areas upon the date of enactment was held to constitute new spending "entitlement" authority which could become effective prior to the fiscal year beginning

during the calendar year in which the bill had been reported.

§ 14.4 A conference report containing a Senate amendment which provided new spending "entitlement" authority in violation of § 401(b) of the Budget Act having been ruled out on a point of order, the House adopted a privileged motion to recede and concur with an amendment which postponed the effectiveness of the entitlement until after the commencement of the fiscal year beginning in the calendar year in which the bill had been reported. 122 CONG. REC. 32108, 94th Cong. 2d Sess., Sept. 23, 1976 [H.R. 10339, the Farmer-to-Consumer Direct Marketing Act of 1976].

§ 15. Entitlement Legislation Referred to Committee on Appropriations

§ 15.1 Section 401(b)(2) of the Budget Act requires a 15-day referral to the Committee on Appropriations of any reported bill which contains new spending authority in excess of the allocation of new budget authority contained in the report filed pursuant to § 302(b) of that act by the Committee reporting the bill, for consideration by the Committee on Appropriations of amendments limiting the total amount of new spending authority in the bill. 122 CONG. REC. 14093, 94th Cong. 2d Sess., May 17, 1976 [H.R. 13615, to amend the Central Intelligence Act of 1964]; 123 CONG. REC. 5370, 95th Cong. 1st Sess., Feb. 24, 1977 [H.R. 3477, the Tax Reduction and Simplification Act of 1977].

§ 15.2 Where two committees had not yet filed reports with the House subdividing among its subcommittees or programs new budget authority allocated to them in the joint statement accompanying a conference report on the concurrent resolution on the budget (as required by § 302(b) of the Budget Act), but where bills reported by those committees contained new spending "entitlement" authority in excess of the total allocations to those committees in the joint statement under § 302(a), the Speaker referred those bills sequentially to the Committee on Appropriations for not more than 15 days as required by § 401(b)(2). 122 CONG. REC. 14093, 94th Cong. 2d Sess., May 17, 1976. *Note:* The Committees on Armed Services and Government Operations had not filed their § 302(b) reports with the House allocating spending authority among their subcommittees, but according to Congressional Budget Office estimates in both bills the amount of "entitlement" authority exceeded the total amount allocated to those committees in the joint statement of the conference report on the first concurrent resolution on the budget, fiscal 1977.

§ 15.3 Where the Committee on Armed Services had previously reported a bill containing new spending "entitlement" authority in excess of the total allocation to that committee in the joint statement accompanying the conference report on the first concurrent resolution on the budget, and that bill had been referred to the Committee on Appropriations as required by § 401(b)(2) of the Budget Act, the Speaker subsequently referred all other bills reported from the Committee on Armed Services which contained "entitlement" authority to the Committee on Appropriations in like manner, since the total allocation of such spending authority to the Committee on Armed Services for that fiscal year had already been exceeded in the first reported bill. 122 CONG. REC. 27775, 94th Cong. 2d Sess., Aug. 25, 1976 [H.R. 4105, to amend 10 USC § 1402(a), to revise the rule for computation of retired or retainer pay to reflect later active duty]. *Note:* Since the sole issue presented by the bill was the extent, if any, of the entitlement, the Committee on Appropriations reported the bill adversely on September 17, 1976 (H. Rept. 94-1435, part II) rather than re-

porting it with an amendment limiting the total amount of spending authority therein.

§ 15.4 Where the Committee on Ways and Means reported a bill on tax reform containing a provison for a "rebate" for taxpayers, including those who paid less tax than the amount of the rebate, and the second concurrent resolution on the budget for fiscal year 1977 did not include the loss in revenues and the increase in budget outlays necessary to implement such rebate, the bill was referred to the Committee on Appropriations for a 15-day period pursuant to § 401(b)(2) of the Budget Act. 123 CONG. REC. 5370, 95th Cong. 1st Sess., Feb. 24, 1977 [H.R. 3477, the Tax Reduction and Simplification Act of 1977]. *Note:* In this instance the question was whether the rebate constituted an entitlement under § 401 of the Budget Act. With respect to taxpayers who paid more than $50 in taxes in fiscal year 1977, the $50 rebate constituted a decrease in revenues which was not subject to the referral procedures in § 401 of the Budget Act (but which would be set forth in the third concurrent resolution on the budget). For those people who paid less than $50 in taxes, or none at all, the payment could be made not as a refund in tax payments but as an expenditure from a standing appropriation in existing law whose purpose was to make refund payments. Since the rebate provision therefore entitled persons to payment out of a fund for a purpose other than that for which the fund was created, the rebate was viewed in part as new spending authority in the form of an entitlement.

§ 15.5 A bill, reported from the Committee on Armed Services and providing new spending (entitlement) authority exceeding the allocation of spending authority to that committee for that purpose for the fiscal year in question, was referred pursuant to § 401(b)(2) of the Budget Act to the Committee on Appropriations for a period not to exceed 15 days. 123 CONG. REC. 27161, 95th Cong. 1st Sess., Aug. 4, 1977 [H.R. 5503, to amend Titles 10 and 37 of the United States Code relating to appointment, promotion, separation, and retirement of members of the armed forces].

§ 15.6 The Speaker may discharge a bill from the Union Calendar for reference to the Committee on Appropriations pursuant to § 401(b) of the Budget Act whenever it appears that the bill as reported contains new spending (entitlement) authority exceeding the allocation to the reporting committee for the appropriate fiscal year, as reported under § 302(b) of the act. 123 CONG. REC. 28173, 95th Cong. 1st Sess., Sept. 8, 1977 [H.R. 3813, to amend an act establishing a Redwood National Park in California]. Thus, when a bill has been reported from committee and placed on the Union Calendar prior to the final adoption of a concurrent resolution on the budget and the publication by the Budget Committee of committee allocations of new entitlement authority, and the new entitlement authority provided by the bill exceeds the amount of such authority allocated to the committee for the fiscal year in question, the Speaker may discharge the bill from the Union Calendar and refer the bill to the Committee on Appropriations pursuant to § 401(b) of the Congressional Budget Act. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 5, 1979 [H.R. 3398, a bill reported from the Committee on Agriculture amending the Food and Agriculture Act of 1977 to increase target prices of 1979 crops of certain commodities]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 6, 1979 [H.R. 3434, a bill reported from the Committee on Ways and Means amending the Social Security Act to increase eligibility and payments in the child welfare and social services programs]. See also 124 CONG. REC. 28543, 95th Cong. 2d Sess., Sept. 8, 1978, where the Speaker under § 401(b) discharged H.R. 13611 from the Union Calendar and referred it to the Committee on Appropriations for 15 days. The Speaker has exercised such authority where the need for a § 401(b) refer-

ence did not become apparent until after the bill had been reported. See 124 CONG. REC. 21786, 95th Cong. 2d Sess., July 19, 1978 [H.R. 12511].

§ 15.7 The Speaker referred to the Union Calendar a bill reported from the Committee on Ways and Means containing, *inter alia,* authority for per diem payments for National Commission on Unemployment personnel at "not to exceed" a certain rate, which the Speaker construed not to contain an entitlement for the ensuing fiscal year exceeding the allocation of new spending authority conferred upon the Committee on Ways and Means by the first concurrent resolution on the budget, since the language merely imposed a ceiling on payments and was not an "entitlement" to any per diem allowance. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 6, 1979 [H.R. 3920].

§ 15.8 Where a bill, initially reported from the Committee on Post Office and Civil Service and containing new spending (entitlement) authority in excess of the amount allocated to that committee during fiscal 1980 by the most recent concurrent resolution on the budget, had been sequentially referred to the Committee on Appropriations for 15 legislative days pursuant to § 401 of the Congressional Budget Act, and a large portion of that referral period had been consumed by pro forma sessions, the Chairman of the Appropriations Committee obtained unanimous consent to extend the referral period for an additional 15 legislative days. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan 24, 1980.

§ 16. Measures Containing Contract or Borrowing Authority Not Subject to Advance Appropriations

§ 16.1 Section 401(a) of the Budget Act prohibits the consideration of a bill or amendment (including a conference report) containing new spending authority in the form of authority to incur indebtedness for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation acts. 122 CONG. REC. 32655, 94th Cong. 2d Sess., Sept. 27, 1976 [Conf. Rept. on H.R. 5546, the Health Professional Education Assistance Act of 1976]. See part I of H. Rept. 95-1813 for a discussion of special Budget Act procedures relating to "backdoor spending" legislation.

§ 16.2 A conference report authorizing the Secretary of Health, Education, and Welfare to borrow funds by issuing government notes as a public debt transaction to make payments in connection with defaults on loans by medical students, not subject to amounts specified in advance in appropriation acts, was conceded to violate § 401(a) of the Budget Act and was ruled out on a point of order. 122 CONG. REC. 32655, 94th Cong. 2d Sess., Sept. 27, 1976 [Conf. Rept. on H.R. 5546, the Health Professional Education Assistance Act of 1976]. *Note:* While the definition of new spending authority in § 401(c)(2) which must be made subject to budget authority in advance in appropriation acts does not include authority to insure or guarantee the repayment of individual indebtedness, the authority to make payments in connection with defaults which have already occurred was conceded to constitute a primary liability of the United States to incur indebtedness and to require budget authority to be limited in advance in appropriation acts.

§ 16.3 A conference report containing new spending (borrowing) authority not subject to advance appropriation act amounts having been ruled out in violation of § 401(a) of the Budget Act, the manager of the bill moved to recede and concur in the Senate amendment containing that language with an amendment rendering the borrowing authority subject to amounts specified in advance in appropriation

acts. 122 CONG. REC. 32679, 94th Cong. 2d Sess., Sept. 27, 1976 [Conf. Rept. on H.R. 5546, the Health Professional Education Assistance Act of 1976].

§ 16.4 A resolution was reported from the Committee on Rules waiving points of order against the consideration of a conference report containing a Senate amendment providing new spending (contract) authority not subject to amounts provided in advance by appropriation acts in violation of § 401(a) of the Budget Act. 123 CONG. REC. 38949, 38950, 95th Cong. 1st Sess., Dec. 15, 1977 [H. Res. 935, providing for consideration of H.R. 3199, the Clean Water Act of 1977]. *Note:* The Budget Committee supported the Budget Act waiver with the understanding that a concurrent resolution would be offered after adoption of the report to correct the enrollment of the bill to make the contract authority subject to the appropriation process. A similar rationale was followed with respect to a waiver of points of order against a reclamation projects bill in August, 1976. Here again, the House adopted a resolution waiving points of order against consideration of a bill containing new spending (contract) authority not subject to advance appropriations acts in violation of § 401(a) of the Budget Act. 122 CONG. REC. 27747, 94th Cong. 2d Sess., Aug. 25, 1976 [H. Res. 1489, providing for consideration of H.R. 14578, authorizing various federal reclamation projects and programs]. *Note:* The Budget Committee supported the § 401(a) waiver on assurance from the Committee on Interior and Insular Affairs that an amendment would be offered to make the contract authority in the bill subject to such amounts as were provided in appropriation acts. For other resolutions reported from the Committee on Rules waiving points of order against the consideration of a bill for (*inter alia*) providing new contract authority not subject to the appropriation process, see 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 10, 1979 [H. Res. 217]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 31, 1979 [H. Res. 271]; and 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 8, 1979 [H.R. 2374].

§ 16.5 Section 401(a) of the Budget Act provides that it shall not be in order to consider any bill providing new spending authority. However, a point of order that a section of a bill providing that certain loan receipts were "authorized to be made available" was in violation of the Budget Act was overruled on the grounds that the funds were subject to the appropriation process and thus no new spending authority was involved. 121 CONG. REC. 28270, 28271, 94th Cong. 1st Sess., Sept. 10, 1975.

§ 16.6 An "authorization" for an appropriation or for funds to be available contemplates subsequent action through the appropriations process, and such language does not itself constitute "new spending authority" which would prohibit the consideration of a bill under § 401 of the Congressional Budget Act. 121 CONG. REC. 28270, 28271, 94th Cong. 1st Sess., Sept. 10, 1975.

§ 16.7 The Chairman of the Committee on the Budget took the floor during debate on a resolution waiving points of order against consideration of a bill containing new spending authority in violation of § 401 of the Congressional Budget Act of 1974 to announce his committee's position relative to waiver of "back-door spending" provisions not subject to limitations in appropriations acts. 121 CONG. REC. 8419, 94th Cong. 1st Sess., Mar. 24, 1975 [H. Res. 352, providing for consideration of H.R. 4222].

§ 16.8 A resolution was reported from the Committee on Rules which, *inter alia,* waived points of order against consideration of a legislative bill containing "new spending authori-

ty" not limited by amounts specified in appropriation acts—in violation of § 401(a) of the Congressional Budget Act of 1974; provided for consideration of a committee amendment in the nature of a substitute as an original bill; and waived points of order against sections of a substitute containing appropriations. 121 CONG. REC. 8418, 94th Cong. 1st Sess., Mar. 24, 1975 [H. Res. 352, providing for consideration of H.R. 4222, to amend the National School Lunch and the Child Nutrition Acts].

§ 16.9 A resolution was reported from the Committee on Rules waiving points of order against consideration of a legislative bill containing "new spending authority" not subject to amounts specified in appropriations acts in violation of § 401 of the Congressional Budget Act of 1974; and waiving points of order against a subsection containing an appropriation. 121 CONG. REC. 13386, 94th Cong. 1st Sess., May 7, 1975 [H. Res. 418, providing for consideration of H.R. 4115, the Nurse Training Act of 1975]. *Note:* The provision in § 202 of the original bill which violated § 401 of the Budget Act was a repeal of the requirement in existing law that amounts for contractual obligations to pay interest subsidies for construction of nurse training facilities be specified in appropriations acts. An amendment was later adopted which struck out that repeal of existing law in the bill.

§ 16.10 A resolution was reported from the Committee on Rules waiving points of order against consideration of a committee amendment in the nature of a substitute containing new spending (contract) authority not subject to appropriations limits in violation of § 401 of the Congressional Budget Act of 1974. 121 CONG. REC. 22732, 94th Cong. 1st Sess., July 15, 1975 [H. Res. 599, providing for consideration of H.R. 7014, the Energy Conservation and Oil Policy Act of 1975].

§ 17. Waiving Points of Order Against Measures Exceeding Budget Authority or Reducing Revenue Below Levels Established in Second Concurrent Resolution on Budget

§ 17.1 First instance of special rule reported from Committee on Rules, waiving points of order against consideration of bill or resolution in violation of § 311 of the Congressional Budget Act, enactment of which would cause either (1) the level of total new budget authority or total budget outlays set forth in second or subsequent concurrent resolution on the budget for the current fiscal year to be exceeded; or (2) the level of revenues set forth therein to be reduced. The waiver was granted against consideration of a House concurrent resolution reported from the Committee on Ways and Means under the Trade Act of 1974, which would have had the effect of reducing revenue below the level set in the second concurrent resolution. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 24, 1980 [H. Res. 529].

§ 17.2 A resolution was reported from the Committee on Rules waiving points of order against consideration of a bill containing new budget authority for the current fiscal year in excess of the ceiling on total budget authority established in the second concurrent resolution on the budget. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 13, 1980 [H. Res. 663].

§ 17.3 The House adopted a resolution waiving points of order against consideration of special supplemental appropriation joint resolution not reported for three days and containing new budget authority for the current fiscal

year where the aggregate ceiling established by the second concurrent resolution on the budget for that year had already been exceeded (according to re-estimates of spending levels reported by the Budget Committee), and permitting consideration in the House under the hour rule. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 30, 1980 [H. Res. 688].

§ 17.4 In the Senate, a point of order was sustained and upheld on appeal by a roll call vote against consideration of an amendment reducing the amount of a rescission of appropriated funds (and converting it into a deferral) where the effect was to increase the net amount of total budget outlays contained in the bill to a level which, when calculated together with other spending actions already completed by the Congress, exceeded the total amount of budget outlays provided for the current fiscal year in the third budget resolution for that year. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 27, 1980 [H.R. 7542].

Chapter 14

Impeachment Powers

§ 1. In General; Grounds for Impeachment
§ 2. Impeachment Charges as Privileged; Referral to Committee
§ 3. Committee Powers; Investigations
§ 4. Hearings and Evidence
§ 5. Committee Consideration; Reports

§ 1. In General; Grounds for Impeachment

§ 1.1 In recommending articles impeaching President Richard Nixon to the House, the House Committee on the Judiciary concluded that the President could be impeached not only for violations of federal criminal statutes, but also for (1) serious abuse of the power of his office and (2) refusal to comply with proper subpenas of the committee for evidence relevant to its impeachment inquiry. H. Rept. No. 93-1305, pp. 1-4, 133-36, 180-83, 213, Committee on the Judiciary, 93d Cong. 2d Sess.; 120 CONG. REC. 29219, 29220, 93d Cong. 2d Sess., Aug. 20, 1974.

§ 1.2 The House declined to take any action on a request by Vice President Spiro Agnew for an investigation into allegations of impeachable offenses against him, where the offenses were not related to his term of office as Vice President and where the offenses were pending before the courts. 119 CONG. REC. 31368, 93d Cong. 1st Sess., Sept. 25, 1973.

§ 1.3 In its final report on its investigation into charges of impeachment against Associate Justice William O. Douglas, a subcommittee of the Committee on the Judiciary concluded that a federal judge could be impeached (1) for judicial conduct which is criminal or which is a serious dereliction from public duty and (2) for nonjudicial conduct which is criminal. The subcommittee recommended that the evidence against Justice Douglas did not warrant impeachment. Final Report by the Special Subcommittee on H. Res. 920 of the Committee on the Judiciary, 91st Cong. 2d Sess., Sept. 17, 1970.

§ 1.4 The House adopted in the 93d Congress a resolution to broadcast by radio and television anticipated House proceedings on a resolution recommending the impeachment of President Nixon. 120 CONG. REC. 27266, 27269, 93d Cong. 2d Sess., Aug. 7, 1974.

§ 1.5 President Nixon having resigned following the decision of the Committee on the Judiciary to report to the House recommending his impeachment, the report was submitted to the House, and further proceedings were discontinued. H. Rept. No. 93-1305, Committee on the Judiciary, 93d Cong. 2d Sess. submitted Aug. 20, 1974; 120 CONG. REC. 29219-361, 93d Cong. 2d Sess. The House suspended the rules and agreed to a resolution noting the committee's action and the President's resignation, accepting the report, and commending the committee for its efforts. 120 CONG. REC. 29361, 29362, 93d Cong. 2d Sess., Aug. 20, 1974 [H. Res. 1333].

§ 2. Impeachment Charges as Privileged; Referral to Committee

§ 2.1 Resolutions introduced through the hopper which directly called for the impeachment or censure of President Nixon in the 93d Congress were referred to the Committee on the Judiciary, whereas resolutions calling for an investigation by that committee or by a select committee with a view toward impeachment were referred to the Committee on Rules. See 119 CONG. REC. 34873, 34874, 93d Cong. 1st Sess., Oct. 23, 1973. For resolution and articles impeaching President Nixon, see H. Rept. No. 93-1305, pp. 1-4, Committee on the Judiciary, 93d Cong. 2d Sess.; 120 CONG. REC. 29219-361, 93d Cong. 2d Sess., Aug. 20, 1974.

§ 2.2 Although charges or resolutions of impeachment are privileged, they cannot be presented while another Member has the floor, unless he yields for that purpose. 116 CONG. REC. 11920, 91st Cong. 2d Sess., Apr. 15, 1970.

§ 2.3 A resolution authorizing an investigation in the 89th Congress into the conduct of

three federal judges was referred to the Committee on Rules but not acted on. 112 CONG. REC. 3665, 89th Cong. 2d Sess., Feb. 22, 1966.

§ 2.4 When the minority leader criticized the conduct of Associate Justice Douglas of the Supreme Court during a special-order speech in the 91st Congress and suggested the creation of a select committee to investigate such conduct to determine whether impeachment was warranted, another Member subsequently announced on the floor that he was introducing a resolution of impeachment, which resolution was referred to the Committee on the Judiciary since it was a direct proposition to impeach. 116 CONG. REC. 11912, 11920, 11941, 91st Cong. 2d Sess., Apr. 15, 1970.

§ 2.5 A resolution impeaching an officer of the U.S. Government may be immediately considered in the House as a question of the highest privilege, but is subject to a motion to lay on the table before debate thereon. 124 CONG. REC. 20606, 95th Cong. 2d Sess., July 13, 1978 [H. Res. 1267, impeaching Andrew Young, U.S. Ambassador to the United Nations].

§ 3. Committee Powers; Investigations

§ 3.1 The Committee on Rules has jurisdiction of resolutions authorizing the Committee on the Judiciary to investigate the conduct of federal officials and directing said committee to report its findings to the House "together with such resolutions as it deems proper." 112 CONG. REC. 3665, 89th Cong. 2d Sess., Feb. 22, 1966. See also 120 CONG. REC. 2349, 2350, 93d Cong. 2d Sess., Feb. 6, 1974, for a form of privileged resolution reported from the Committee on the Judiciary, authorizing that committee or its subcommittees to (further) investigate the sufficiency of grounds for impeachment of a federal civil officer; conferring additional subpena power and authority to take testimony by deposition, by committee counsel and by written interrogatory, to be exercised by the chairman and ranking minority member acting jointly, or separately subject to permission of the full committee, or by the committee or subcommittee; defining "things" to be produced by subpena duces tecum; authorizing the committee to sit during five-minute debate in the Committee of the Whole; and continuing the availability of funds expended from the contingent fund of the House.

§ 3.2 Although the House had adopted a resolution authorizing the Committee on the Judiciary, to which had been referred resolutions impeaching President Nixon, to conduct investigations (with subpena power) within its jurisdiction as such jurisdiction was defined in Rule XI clause 14, and although the House had adopted a resolution intended to fund expenses of the impeachment inquiry by the committee, the Committee on the Judiciary reported and called up as privileged a subsequent resolution specifically mandating an impeachment investigation and continuing the availability of funds, in order to confirm the delegation of authority from the House to that committee to conduct the investigation. 120 CONG. REC. 2349, 2350, 93d Cong. 2d Sess., Feb. 6, 1974.

§ 3.3 The House agreed to a resolution authorizing the counsel to the Committee on the Judiciary to take depositions of witnesses in an impeachment investigation when authorized by the chairman and ranking minority member of the committee, notwithstanding Rule XI clause 28(h), which requires at least two committee members to be present during the taking of testimony. 120 CONG. REC. 2349, 2350, 2362, 2363, 93d Cong. 2d Sess., Feb. 6, 1974.

§ 4. Hearings and Evidence

§ 4.1 The House in the 93d Congress refused to suspend the rules and agree to a resolution authorizing the Committee on the Judiciary, in holding hearings in its impeachment inquiry into the conduct of President Nixon, to proceed without regard to Rule XI clause 28(f)(4), requiring the application of the five-minute rule in the interrogation of witnesses. 120 CONG. REC. 21849, 21855, 93d Cong. 2d Sess., July 1, 1974 [H. Res. 1210].

§ 4.2 In its impeachment inquiry into the conduct of President Nixon, the Committee on the Judiciary held hearings in executive session for the presentation of statements of information and supporting evidentiary material by the inquiry staff, and for the presentation of materials by the President's counsel, which evidentiary materials and presentations were later made public. H. Rept. No. 93-1305, p. 9, Committee on the Judiciary, 93d Cong. 2d Sess.; 120 CONG. REC. 29221, 93d Cong. 2d Sess., Aug. 20, 1974.

§ 4.3 In its inquiry into charges of impeachable offenses against President Nixon, the Committee on the Judiciary adopted procedures which ensured the confidentiality of impeachment inquiry materials and which limited access to such materials to the chairman, ranking minority member, and counsel of the committee. H. Rept. No. 93-1305, p. 8, Committee on the Judiciary, 93d Cong. 2d Sess.; 120 CONG. REC. 29221, 93d Cong. 2d Sess., Aug. 20, 1974; for procedures adopted by the Committee on the Judiciary in the 93d Congress for presenting evidence and holding evidentiary hearings in its impeachment inquiry into the conduct of President Nixon, see H. Rept. No. 93-1305, p. 8, Committee on the Judiciary, 93d Cong. 2d Sess.; 120 CONG. REC. 29221, 93d Cong. 2d Sess., Aug. 20, 1974.

§ 4.4 Where a federal court subpenaed in a criminal case certain evidence gathered by the Committee on the Judiciary in an impeachment investigation, the House adopted a resolution granting such limited access to the evidence as would not violate the privileges of the House or its sole power of impeachment under the United States Constitution. 120 CONG. REC. 30047, 30048, 93d Cong. 2d Sess., Aug. 22, 1974.

§ 5. Committee Consideration; Reports

§ 5.1 The Committee on the Judiciary adopted in the 93d Congress a resolution governing consideration of a motion to report to the House a resolution and articles impeaching President Nixon; the resolution provided for general debate on the resolution, reading the articles for amendment under the five-minute rule, and considering the original motion as adopted should any article be agreed to. H. Rept. No. 93-1305, p. 10, Committee on the Judiciary, 93d Cong. 2d Sess.; 120 CONG. REC. 29221, 93d Cong. 2d Sess., Aug. 20, 1974.

§ 5.2 A subcommittee of the Committee on the Judiciary investigated charges of impeachable offenses against Associate Justice Douglas of the Supreme Court and recommended to the committee that impeachment was not warranted. Final Report of the Special Subcommittee on H. Res. 920 of the Committee on the Judiciary, Committee Print, Committee on the Judiciary, 91st Cong. 2d Sess., Sept. 17, 1970.

§ 5.3 In the later practice, the Committee on the Judiciary has considered together a resolution of impeachment and articles of impeachment. H. Rept. No. 93-1305, pp. 1-4, Committee on the Judiciary, 93d Cong. 2d Sess.; 120 CONG. REC. 29219, 29220, 93d Cong. 2d Sess., Aug. 20, 1974.

§ 5.4 The House in the 93d Congress amended House Rule XI clause 34 to provide for broadcasting under certain conditions of meet-

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ings of committees, thereby permitting the broadcast of the consideration by the Committee on the Judiciary of a resolution and articles impeaching President Nixon. 120 CONG. REC. 24436, 24447, 24448, 93d Cong. 2d Sess., July 22, 1974.

§ 5.5 Reports of the Committee on the Judiciary recommending the impeachment of federal civil officers are referred to the House Calendar and ordered printed. 120 CONG. REC. 29219, 93d Cong. 2d Sess., Aug. 20, 1974.

§ 5.6 A committee to which has been referred privileged resolutions for the impeachment of a federal civil officer may report and call up as privileged resolutions incidental to consideration of the impeachment question, including conferral of subpena authority and funding of the investigation from the contingent fund, notwithstanding the authority under Rule XI for the Committees on Rules and House Administration, respectively, to file privileged reports authorizing and funding committee investigations. 120 CONG. REC. 2349, 2350, 93d Cong. 2d Sess., Feb. 6, 1974.

§ 5.7 *Note:* Resolutions authorizing a committee to conduct investigations with subpena power, and resolutions funding such investigations from the contingent fund of the House, are normally privileged only when reported and called up, respectively, by the Committee on Rules and the Committee on House Administration. Rule XI clause 23. But a committee to which resolutions of impeachment have been referred may report and call up as privileged resolutions incidental to the consideration of the impeachment question. It should also be noted that resolutions impeaching federal civil officers, and resolutions incidental to the impeachment question, are highly privileged under the United States Constitution and under the precedents of the House, and would not be subject to the three-day requirement of Rule XI. [See Rule XI clause 28(d)(4), which requires that a committee report shall not be considered in the House until the third calendar day on which the report has been available to Members of the House.]

Chapter 15

Resolutions of Inquiry

§ 1. In General

§ 1. In General

§ 1.1 *Note:* Resolutions of inquiry are used by the House in the exercise of its right to request information from the executive branch. However, a resolution of inquiry is not privileged where it contains a request for an opinion or an investigation; the information sought should be limited to factual information. See 119 CONG. REC. 6383-85, 93d Cong. 1st Sess., Mar. 6, 1973 [H. Res. 26, directing the Secretary of Defense to furnish certain information on bombing missions in North Vietnam]. H. Res. 26 was not a privileged resolution of inquiry, as it contained a clause which requested information on "the extent of damage" to facilities struck by bombs and therefore sought an opinion or an investigation by the Secretary of Defense.

§ 1.2 A committee may report as privileged an adverse report on a resolution of inquiry. 118 CONG. REC. 13497, 92d Cong. 2d Sess., Apr. 19, 1972 [H. Res. 918]; 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 20, 1980 [H. Res. 571].

§ 1.3 By unanimous consent, a committee may be discharged from a resolution of inquiry. 119 CONG. REC. 33687, 93d Cong. 1st Sess., Oct. 13, 1973. *Note:* The resolution of inquiry (H. Res. 572) directed the Attorney General to furnish the House with all factual information indicating that Vice President Agnew might have accepted bribes or evaded the income tax laws. These proceedings culminated in the tabling of the resolution following the resignation of Vice President Agnew.

§ 1.4 By unanimous consent, the Committee on the Judiciary was discharged from consideration of a resolution of inquiry and that resolution laid on the table upon the request of its sponsor. 119 CONG. REC. 35644, 93d Cong. 1st Sess., Nov. 1, 1973. *Note:* A Member had introduced H. Res. 634 as a privileged resolution of inquiry requesting the Attorney General to furnish the House with all documents and items of evidence in the custody of the Watergate Special Prosecutor as of October 20, 1973. When the Attorney General subsequently turned those documents over to a federal court, thus assuring their preservation, the Member decided not to proceed further with the resolution.

§ 1.5 The House has laid on the table privileged resolutions of inquiry which have been adversely reported by a committee. 117 CONG. REC. 34266, 92d Cong. 1st Sess., Sept. 30, 1971 [H. Res. 595, 619, directing the Secretary of State to furnish certain communications to the House of Representatives; to avoid another meeting of the committee to consider and adversely report an identical resolution (H. Res. 619), the chairman, following the tabling of H. Res. 595 which had been adversely reported, obtained unanimous consent for the discharge and tabling of the identical resolution].

§ 1.6 The House has laid on the table privileged resolutions of inquiry after they had been adversely reported by the Committee on Armed Services. 118 CONG. REC. 14348-434, 92d Cong. 2d Sess., Apr. 26, 1972 [H. Res. 918, directing the President and Secretary of Defense to furnish information as to specific U.S. military activities in Indochina]; 118 CONG. REC. 28365, 92d Cong. 2d Sess., Aug. 16, 1972 [H. Res. 1078, 1079, directing the Secretary of Defense to furnish certain information to the House].

§ 1.7 The Chairman of the Committee on Armed Services reported adversely a privileged resolution of inquiry, then obtained unanimous consent for its immediate consideration (thereby waiving the three-day availability requirement of clause 28(d)(4) Rule XI, and then moved to lay the resolution on the table. 119 CONG. REC. 14990-94, 93d Cong. 1st Sess., May 9, 1973 [H. Res. 379, directing the Secretary of Defense to furnish information to the House of Representatives].

§ 1.8 The House agreed to a preferential motion to lay on the table a privileged resolution of inquiry reported adversely by the Committee on Armed Services. 117 CONG. REC. 23030, 92d Cong. 1st Sess., June 30, 1971 [H. Res. 489, requesting the President to furnish the complete text of the study entitled "United States-Vietnam Relationships, 1945-1967"]. *Note:* A resolution of inquiry reported by a committee would ordinarily be subject to the provisions of clause 28(d)(4) Rule XI, and would not be privileged until the report had been available for three calendar days; when no point of order was raised, however, the House proceeded to consider the reported resolution on the day reported.

§ 1.9 The Chairman of the Committee on Foreign Affairs called up a resolution of inquiry regarding the military alert invoked on Oct. 24, 1973, reported adversely from that committee, and then offered a motion to lay that resolution on the table. 120 CONG. REC. 10177, 10180, 93d Cong. 2d Sess., Apr. 9, 1974 [H. Res. 1002, requesting the Secretary of State to submit certain information to the House].

§ 1.10 The Member calling up a privileged resolution of inquiry reported from committee is recognized to control one hour of debate and may move to lay the resolution on the table during that time. 117 CONG. REC. 23807-10, 92d Cong. 1st Sess., July 7, 1971 [H. Res. 492, 493, 494, 495, directing the Secretary of State to furnish certain documents to the House of Representatives]; 117 CONG. REC. 37055-57, 92d Cong. 1st Sess., Oct. 20, 1971 [H. Res. 632, 638, directing the Secretary of State to furnish certain information to the Committee on Foreign Affairs].

§ 1.11 A resolution calling upon the head of an executive department to furnish the House with a statement of opinion and not merely factual information is not a privileged resolution of inquiry within the meaning of clause 5 Rule XXII. 117 CONG. REC. 23810, 92d Cong. 1st Sess., July 7, 1971, where a resolution requesting the Secretary of State to furnish the "rationale" for U.S. involvement in Vietnam, "analyses" of certain "capacities", "capabilities", "scope of malfunction and corruption", and "depth of popular support" was held to call for statements of opinion.

§ 1.12 The House agreed to a resolution of inquiry directing the Secretary of Health, Education and Welfare to furnish the House with documents containing a list of public school systems receiving federal aid which bus schoolchildren to achieve racial balance and any documents indicating that department's use of federal funds for such busing. 117 CONG. REC. 28863, 28869, 92d Cong. 1st Sess., Aug. 2, 1971 [H. Res. 539].

§ 1.13 Resolutions of inquiry are reported as privileged by the chairman of the reporting committee. 117 CONG. REC. 23211, 92d Cong. 1st Sess., July 1, 1971 [H. Res. 492, 493, 494, 495]. *Note:* Clause 5 Rule XXII provides that resolutions of inquiry shall be reported to the House within one week (construed to be seven "legislative" days) after presentation. If the committee does not report within that time, a motion to discharge the committee from further consideration of the resolution becomes privileged. Once the committee reports, however, the committee chairman is recognized over all other Members to call up the resolution even though the committee has reported adversely in order to prevent a motion to discharge. If the resolution of inquiry is not yet eligible for a privileged motion to discharge under clause 5 Rule XXII it is subject to discharge by unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 13, 1979 [H. Res. 398].

§ 1.14 *Note:* Where a resolution of inquiry had been pending before a committee for more than seven legislative days and that committee had then ordered the resolution adversely reported but had not filed a written report there-

on, the committee was "discharged" from consideration of the resolution upon its presentation to the House as privileged when no point of order was raised. 117 CONG. REC. 29060, 29063, 92d Cong. 1st Sess., Aug. 3, 1971 [H. Res. 557, directing the Secretary of Defense to furnish certain documents to the House]. The permanent Record and Journal correctly indicate the discharge of the Committee on Armed Services from consideration of House Resolution 557 since there was no written report thereon. The provisions of clause 27(d)(4) Rule XI requiring the availability of committee reports for three calendar days are applicable to *reported* resolutions of inquiry. It is apparent, since this resolution was not technically reported, that a committee can maintain control over a resolution of inquiry after seven legislative days, even though it does not meet to consider the resolution, by its chairman offering a privileged motion to discharge and then, if the motion is successful, moving to lay the resolution on the table. This procedure also avoids the three-day requirement which is applicable only to reported resolutions.

§ 1.15 If a motion to discharge a committee from the further consideration of a privileged resolution of inquiry is agreed to, the resolution is debatable under the hour rule, and the proponent of the resolution is entitled to prior recognition. 121 CONG. REC. 30748, 94th Cong. 1st Sess., Sept. 29, 1975 [H. Res. 718, a resolution of inquiry, directing the Secretary of Health, Education, and Welfare to furnish documents relating to public school systems to the House].

§ 1.16 A resolution of inquiry, adversely reported from the Committee on Interstate and Foreign Commerce, was called up for consideration in the House, debated under the hour rule, and then withdrawn by the Member managing the resolution for the committee before the previous question was moved. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 14, 1979 [H. Res. 291, directing the President to provide Members with information on the energy situation]. On the following day, the resolution was again called up, debated de novo, and then, after the expiration of the hour, the manager moved to lay the resolution on the table. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 15, 1979. The House rejected the motion to table and then, following the ordering of the previous question (by unanimous consent), the resolution was agreed to.

§ 1.17 In 1980, the House rejected by a roll call vote a motion to table a resolution of inquiry favorably reported by the two committees to which referred (the motion to table having been offered by the manager of the resolution, the chairman of one of the two committees), and then adopted the resolution by a voice vote. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 10, 1980 [H. Res. 745, In re Billy Carter]. Subsequently, a communication from the President, responding to this resolution (relative to the President's brother's connections with Libya), was laid before the House, and the communication and accompanying papers were jointly referred to the Committees on Foreign Affairs and the Judiciary (the committees reporting the resolution of inquiry). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 17, 1980.

Chapter 16

Introduction and Reference of Bills

§ 1. In General; Introduction
§ 2. Sponsorship
§ 3. Reference
§ 4. —Private Bills
§ 5. Joint, Divided, and Sequential Referrals
§ 6. Time Limitations on Referred Bills; Extensions
§ 7. Referrals to or From Special and Ad Hoc Committees

§ 1. In General; Introduction

§ 1.1 *Note:* Bills may not be introduced by a Member-elect until he takes the oath. See 111 CONG. REC. 25, 89th Cong. 1st Sess., January 4, 1965, where bills placed in the hopper by two Representatives-elect were not accepted for reference.

§ 1.2 A bill becomes the property of the House when introduced and is not withdrawn or canceled because of the death, resignation, or replacement of the Member or Delegate introducing it. 106 CONG. REC. 9246, 86th Cong. 2d Sess., May 3, 1960, where a private bill, introduced by the Delegate from the Territory of Hawaii, was considered and passed by the House after the admission of the new state of Hawaii and after an elected Representative had replaced the Delegate in the House.

§ 1.3 The death of a Member after introduction of a bill does not preclude subsequent action thereon. 110 CONG. REC. 15274, 88th Cong. 2d Sess., June 29, 1964, where a committee reported and the House passed a bill after the death of the Member who had introduced it.

§ 1.4 A citizens' petition is sometimes introduced by a Member "by request" and referred to committee pursuant to clause 6 Rule XXII, in which case the words "by request" are entered on the Journal and printed in the Record following the name of the Member. 107 CONG. REC. 5900, 87th Cong. 1st Sess., Apr. 13, 1961 [petition of 67 faculty members of Dartmouth College seeking the elimination of the House Committee on Un-American Activities as a standing committee].

§ 1.5 It is traditional for the Speaker to refrain from sponsoring public bills containing subject matter of general import. But sometimes a Speaker will introduce a bill pertaining solely to a matter within his congressional district. See 116 CONG. REC. 16643, 91st Cong. 2d Sess., May 21, 1970. See also 117 CONG. REC. 23043, 92d Cong. 1st Sess., June 30, 1971 [H. Con. Res. 354, commemorating Honor America Day, which originally carried the Speaker's name as a cosponsor along with a Member's; however, the Speaker removed his name as a cosponsor, since in recent years the Speakers have followed a policy of not introducing (or cosponsoring) public bills or resolutions].

§ 1.6. Adoption by the two Houses of a concurrent resolution providing that no legislative business shall be conducted until a day certain was considered not to deprive Members of the privilege of introducing bills and resolutions during interim pro forma sessions; such legislation, if introduced, is numbered but not noted in the Record or referred to committee by the Speaker until the resumption of legislative business. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 7, 1980.

§ 2. Sponsorship

§ 2.1 By directive of the Speaker, all bills and resolutions must be signed by the prime sponsor thereof in order to be accepted for introduction. 118 CONG. REC. 2521, 92d Cong. 2d Sess., Feb. 3, 1972. *Note:* On January 27, 1972, six bills separately sponsored by six different Members dealing with four aspects of the subject of fire research and safety were placed in the hopper and referred without the knowledge of those Members. Neither the chief sponsor nor the other Members were able to explain the source of the introduction of those bills. To prevent a recurrence of this problem, the Speaker announced his directive as to the signing of proposed bills and resolutions.] See also 119 CONG. REC. 30, 93d Cong. 1st Sess., Jan. 3, 1973, where the Speaker announced that bills placed in the hopper must bear the original signature of the chief sponsor or first-named Member.

§ 2.2 In the 95th Congress, Rule XXII was amended to permit unlimited cosponsorship of public bills and resolutions, effective Jan. 3, 1979. H. Res. 86, Oct. 10, 1978. *Note:* The Speaker interpreted newly adopted Rule XXII clause 4, which permits unlimited cosponsorship of public bills until reported from committee, as requiring additional cosponsors' names to be processed by separate form "in the same manner as when a bill is introduced," and that additional cosponsors could be added only when the House was in session, and not following adjournment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979. For the first occasion where cosponsors were added to a bill previously introduced pursuant to Rule XXII clause 4(b) as amended in the 95th Congress, see 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 18, 1979. Joint sponsorship of bills began in the 90th Congress, when Rule XXII was first amended to permit up to 24 Members to join with the prime sponsor in introduction. 113 CONG. REC. 10708-12, 90th Cong. 1st Sess., Apr. 25, 1967 [H. Res. 42].

§ 2.3 Since a bill as introduced in the House becomes the property of the House, the sponsor thereof cannot thereafter remove a name included among the cosponsors. But a statement indicating that an error was made in listing a name can be made on the floor and will appear in the Record. 115 CONG. REC. 29347, 91st Cong. 1st Sess., Oct. 9, 1969.

§ 2.4 A Member may, by unanimous consent, remove his name as a cosponsor of an introduced bill or resolution pursuant to Rule XXII clause 4(b)(2). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 26, 1979. *Note:* Prior to the 96th Congress, a Member could not, even by uanimous consent, remove his name as a cosponsor of an introduced bill, though he could announce his withdrawal of support for the bill. 117 CONG. REC. 8268, 92d Cong. 1st Sess. Mar. 29, 1971.

§ 3. Reference

§ 3.1 *Note:* Public bills are referred by the Speaker to committees in accordance with the jurisdiction vested in them by the rules.

§ 3.2 On rare occasions a private bill is introduced from the floor and called up for consideration by unanimous consent without being referred to a committee. 115 CONG. REC. 9258, 91st Cong. 1st Sess., Apr. 16, 1969 [H.R. 10158, mail franking privilege for Mamie Doud Eisenhower].

§ 3.3 The referral of a public bill to the proper committee, under the rules of the House, is the responsibility of the Speaker. 112 CONG. REC. 4579, 89th Cong. 2d Sess., Mar. 2, 1966 [H.R. 9963, an act providing for the participation by the United States in the 1967 Alaska Centennial].

§ 3.4 The Speaker has taken the floor to explain his reference of a bill. 112 CONG. REC. 4579, 89th Cong. 2d Sess., Mar. 2, 1966 [H.R. 9963].

§ 3.5 Bills placed in the hopper on the opening day of a new Congress are not referred until after the adoption of the rules. Bills that are not referred on the opening day are sometimes printed in the next day's Record with a date corresponding with the date on which the rules were adopted. 117 CONG. REC. 16, 92d Cong. 1st Sess., Jan. 21, 1971.

§ 3.6 A Senate bill, messaged to the House following *sine die* adjournment, is not referred to committee until opening day of the next session of the same Congress. 112 CONG. REC. 36, 89th Cong. 2d Sess., Jan. 10, 1966.

§ 3.7 The sponsor of a bill, pursuant to an agreement with the chairmen of the committees involved, obtained unanimous consent that his bill be rereferred. 116 CONG. REC. 24451, 91st Cong. 2d Sess., July 15, 1970 [H.R. 18365, amending title 10, United States Code,

to provide a civil action for wrongful prosecution of certain U.S. military personnel].

§ 3.8 The Speaker announced to the House his first sequential referral of a bill under Rule X clause 5(c), and the Record contained a separate heading indicating the time limit of the referral and the printing of the first committee's report as part one. 121 CONG. REC. 7074, 7106, 94th Cong. 1st Sess., Mar. 18, 1975 [H.R. 49, establishing national petroleum reserves on certain public lands]. *Note:* This procedure was adopted on Oct. 8, 1974, as part of House Resolution 988, which reformed the structure, jurisdiction, and procedures of House committees by amending Rules X and XI. The reforms became effective just before noon on Jan. 3, 1975.

§ 3.9 Pursuant to Rule X clause 5(c), the Speaker may refer a bill to a special ad hoc committee, appointed by him (from the members of committees with legislative jurisdiction) with the approval of the House, for consideration and a report on that particular bill. 121 CONG. REC. 11271, 94th Cong. 1st Sess., Apr. 22, 1975 [H. Res. 412, establishing an ad hoc Select Committee on the Outer Continental Shelf]. *Note:* Other bills on the outer continental shelf had been jointly referred to the Committees on Science and Technology (energy research and development) and on Government Operations (general revenue sharing) but since those provisions were not contained in H.R. 6218, members from those committees were not included in the composition of the select committee, and bills subsequently introduced but containing provisions not within the select committee's new jurisdiction were jointly referred to all the standing committees involved.

§ 3.10 In response to a series of parliamentary inquiries, the Speaker indicated that he has discretionary authority under Rule XXIV clause 2, to refer a message from the Senate to the appropriate committee with legislative jurisdiction (not to the Rules Committee) or to hold the bill at the Speaker's table pending a report from the Rules Committee providing for its disposition. 121 CONG. REC. 26245, 94th Cong. 1st Sess., July 31, 1975.

§ 3.11 A bill reported from the Interstate and Foreign Commerce Committee authorizing appropriations for the Corporation for Public Broadcasting and containing a section appropriating funds for the period covered by the authorization was sequentially referred by the Speaker for two months to the Appropriations Committee for consideration of the appropriations contained in the bill. 121 CONG. REC. 15945, 94th Cong. 1st Sess., May 22, 1975 [H.R. 6461, long-term financing for the Corporation for Public Broadcasting]. *Note:* The corporation had importuned the Interstate and Foreign Commerce Committee to report the bill projecting five-year authorization and actual funding. Since the bill in that form was in violation of Rule XXI clause 5 and contained a section within the jurisdiction of the Appropriations Committee, the Speaker referred the bill sequentially (pursuant to a prior agreement between the two committees) but only for consideration of the appropriation portion of the bill. Rather than report with an amendment striking out the appropriation, the Appropriations Committee reported the entire bill adversely, and indicated that an amendment striking the five-year appropriation would be offered if a point of order under Rule XXI clause 5, were waived or not sustained.

§ 3.12 Rule XLVIII clause 2 requires referral to the Select Committee on Intelligence of all bills relating to intelligence and intelligence-related activities of all departments of the government. 124 CONG. REC. 13516, 95th Cong. 2d Sess., May 12, 1978 [H.R. 12005]. Thus, the Select Committee on Intelligence and not the Committee on Armed Services has jurisdiction over a resolution of inquiry directing the Secretary of Defense to furnish to the House documents and information on Cuban or other

foreign military or paramilitary presence in Panama or the Canal Zone. 124 CONG. REC. 9105, 95th Cong. 2d Sess., Apr. 6, 1978 [H. Res. 1075].

§ 3.13 Where after introduction a bill is referred to a single committee, the reference thereafter may be changed to a joint or split referral only by unanimous consent. 124 CONG. REC. 11946, 95th Cong. 2d Sess., May 1, 1978 [H.R. 11392].

§ 4. — Private Bills

§ 4.1 Rule XXI clause 4 prohibits the reference, except by unanimous consent, of a bill for the payment of a private claim to any committee other than the Committee on the Judiciary or the Committee on Foreign Affairs. 124 CONG. REC. 12615, 95th Cong. 2d Sess., May 4, 1978 [H.R. 12556, for the relief of Batavia Turf Farms, Inc.]. In this instance, by unanimous consent, a private bill within the jurisdiction of the Committee on the Judiciary was referred, upon introduction, to the Committee on Agriculture.

§ 4.2 On rare occasions a private bill is introduced from the floor and called up for consideration by unanimous consent without being referred to a committee. 115 CONG. REC. 9258, 91st Cong. 1st Sess., Apr. 16, 1969 [H.R. 10158, mail franking privilege for Mamie Doud Eisenhower].

§ 5. Joint, Divided, and Sequential Referrals

§ 5.1 Pursuant to Rule X clause 5, the Speaker may jointly refer a bill to two (or more) committees for their concurrent consideration (125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 6, 1979 [H.R. 2626]) or he may refer a bill jointly to two committees for their respective consideration only of such provisions of the bill as come within their jurisdictions (122 CONG. REC. 4315, 94th Cong. 2d Sess., Feb. 25, 1976 [H.R. 12113]). For example, a bill permitting utilities to finance the installation of energy conservation measures, establishing an Energy Conservation Bank to provide financial assistance to purchasers of energy conserving improvements, to provide secondary financing authority for purchase of loans made for such improvements, and to improve the weatherization grant program for low-income persons, was referred jointly to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce, for consideration of such portions of the bill as fell within their respective jurisdictions. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 26, 1979 [H.R. 5726]. *Note:* The Speaker's limiting endorsement on the bill can be an implicit restriction on the authority of either committee to consider authorizations or programs outside their jurisidiction.

§ 5.2 Pursuant to Rule X clause 5, which permits the Speaker to make "appropriate provisions" to assure that all committees having jurisdiction may consider a matter to be referred, the Speaker may refer a select committee report jointly to several standing committees for their study and may subsequently refer the report to still another House committee under the same conditions. 122 CONG. REC. 6539, 94th Cong. 2d Sess., Mar. 16, 1976; 122 CONG. REC. 9261, 94th Cong. 2d Sess., Apr. 2, 1976.

§ 5.3 Pursuant to Rule X clause 5, the Speaker may sequentially refer a bill reported from a committee to two other committees jointly for a time certain for consideration of such portions of the bill as fall within their respective jurisdictions. 122 CONG. REC. 10265, 94th Cong. 2d Sess., Apr. 9, 1976 [H.R. 2525, federal Indian health program].

§ 5.4 A bill reported from the Committee on Banking, Currency and Housing, creating a National Consumer Cooperative Bank and

providing that the bank and its assets be exempt from local, state, and federal taxation, was sequentially referred to the Committee on Ways and Means for consideration of such provisions of the bill as fell within the jurisdiction of that committee under Rule X clause 1(v). 122 CONG. REC. 28532, 94th Cong. 2d Sess., Aug. 31, 1976 [H.R. 14829, the National Consumer Cooperative Bank Act]. *Note:* Examples of prior bills sequentially referred to the Committee on Ways and Means for consideration of tax exemption provisions are H.R. 10481, Intergovernmental Emergency Assistance Act, on November 6, 1976, and the synthetic fuels bill, H.R. 12112, on June 18, 1976.

§ 5.5 The Speaker may, under Rule X clause 5(c), as amended in the 95th Congress, divide a matter for initial reference to two or more committees and set appropriate time limitations on the reference to each committee. 123 CONG. REC. 4532, 95th Cong. 1st Sess., Feb. 16, 1977 [H. Res. 287]. *Note:* The Speaker referred a resolution relating to congressional ethics reported from the Commission on Administrative Review and containing the recommendations of the Commission, dividing the matter between the Committee on Rules, the Committee on Standards of Official Conduct, and the Committee on House Administration.

§ 5.6 Under Rule X clause 5(c), the Speaker may divide a bill into two or more parts for initial reference to different committees and may also jointly refer a portion of the bill to some of those committees. In this instance, a bill containing the text of the President's draft legislation to establish a comprehensive national energy policy was divided for reference (with a portion referred to two committees) and initially referred for a time certain to five standing committees. 123 CONG. REC. 13184, 95th Cong. 1st Sess., May 2, 1977 [H.R. 6831].

§ 5.7 A bill initially reported from the Committee on Armed Services, authorizing appropriations for the Energy Research and Development Administration for national security applications of nuclear energy, was sequentially referred for a time certain to the Committee on Science and Technology for consideration of such portions of Title I of the bill relating to nonmilitary nuclear energy research and development as fell within that committee's jurisdiction under Rule X clause 1(r). 123 CONG. REC. 13980, 95th Cong. 1st Sess., May 9, 1977 [H.R. 6566].

§ 5.8 Pursuant to Rule X clause 5, the Speaker referred a bill sequentially for a time certain to the Committee on Armed Services for consideration of matters within its jurisdiction under Rule X clause 1(c)(11) and to the Committee on International Relations for consideration of matters within its jurisdiction under Rule X clause 1(k)(15). The bill had been reported from the Committee on Science and Technology and authorized appropriations for nuclear functions of the Energy Research and Development Administration. 123 CONG. REC. 15153, 95th Cong. 1st Sess., May 17, 1977 [H.R. 6796].

§ 5.9 Pursuant to Rule X clause 5, the Speaker sequentially referred for a time certain to the Committee on Post Office and Civil Service, for consideration of such matters as fell within its jurisdiction under Rule X clause 1(o)(5) (status of officers and employees of the United States), a bill initially reported from the Committee on Government Operations creating a new Department of Energy and providing for the compensation and classification of its officers. 123 CONG. REC. 15153, 95th Cong. 1st Sess., May 17, 1977 [H.R. 6804].

§ 5.10 Under Rule X clause 5, the Speaker may sequentially refer for a time certain a bill initially reported by a committee with an amendment containing a section within the jurisdiction of another committee to that committee for consideration of that portion of the bill and the amendment as well. Thus, the

Speaker sequentially referred a bill reported with a committee amendment in the nature of a substitute from the Committee on Ways and Means, amending the Social Security Act, to the Committee on Post Office and Civil Service solely for consideration of the section of the bill and the corresponding section of the Ways and Means amendment in the nature of a substitute dealing with coverage under the social security system of all federal employees (the compensation, classification, and retirement of federal employees falling within that committee's jurisdiction under Rule X clause 1(o)(5)). 123 CONG. REC. 33716, 95th Cong. 1st Sess., Oct. 13, 1977 [H.R. 9346]. *Note:* This was the first occasion on which the Speaker's reference acknowledged that a committee to which a bill is sequentially referred has the authority to consider and to report out amendments to an amendment adopted by the first committee which alters those provisions in the introduced bill within the jurisdiction of the second committee. Where the Speaker does not specifically indicate in his reference the portion of the first committee's amendment which may be considered by the committee of sequential reference, the latter committee must nevertheless restrict its deliberations and recommendations to that portion thereof within its jurisdiction.

§ 5.11 Pursuant to Rule X clause 5, the Speaker referred a bill, reported from the Committee on Interior and Insular Affairs with amendments, to develop mineral resources in the deep seabed pending adoption of an international regime relating thereto, to the Committee on International Relations for a time certain for consideration of such portions of the bill and amendments thereto as fell within the jurisdiction of the Committee on International Relations under Rule X clause 1(k). 123 CONG. REC. 37499, 95th Cong. 1st Sess., Nov. 8, 1977 [H.R. 3350].

§ 5.12 Recent sequential referrals have included:

(1) A bill reported from the Committee on International Relations authorizing a U.S. contribution of tin (from the strategic and critical materials stockpile) to the tin buffer stock created by the Fifth International Tin Agreements—referred to the Committee on Armed Services and the Committee on Banking, Finance and Urban Affairs. 124 CONG. REC. 10237, 95th Cong. 2d Sess., Apr. 17, 1978 [H.R. 9486].

(2) A bill reported from the Committee on Science and Technology, authorizing appropriations for the Department of Energy for research and development—referred to the Committee on Interior and Insular Affairs and Interstate and Foreign Commerce for consideration of provisions relating to uranium enrichment and nuclear decommissioning and decontamination provisions. 124 CONG. REC. 11102, 95th Cong. 2d Sess., Apr. 24, 1978 [H.R. 12163].

(3) A bill reported from the Committee on Interior and Insular Affairs, authorizing appropriations to the Nuclear Regulatory Commission—referred to the Committee on Interstate and Foreign Commerce for a time certain for consideration of such matters therein as fell within its jurisdiction. 124 CONG. REC. 11742, 95th Cong. 2d Sess., Apr. 27, 1978 [H.R. 12355]; see also 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 2608].

(4) A bill reported from the Committee on Interior and Insular Affairs, designating a wilderness, canoe, and recreation area partially within a national forest created from purchased land—referred to the Committee on Agriculture. 124 CONG. REC. 12643, 95th Cong. 2d Sess., May 4, 1978 [H.R. 12250].

(5) A bill reported from the Committee on the Judiciary, which included appropriations for FBI intelligence activities—referred to the Permanent Select Committee on Intelligence for consideration of such portions of the bill and a Judiciary Committee amendment as fell within its jurisdiction under Rule XLVIII. 124

CONG. REC. 13516, 95th Cong. 2d Sess., May 12, 1978 [H.R. 12005].

(6) A bill relating to the collection of statistical information, reported from the Committee on Post Office and Civil Service—referred to the Committee on Rules for a time certain for consideration of those provisions of the bill and committee amendments which in effect amended the rules of the House. 124 CONG. REC. 14192, 95th Cong. 2d Sess., May 17, 1978 [H.R. 11253].

(7) A bill amending the Ports and Waterways Safety Act (reported by the Committee on Merchant Marine and Fisheries)—referred to the Committee on International Relations for consideration of those portions of the bill providing for international negotiations on safety standards. 124 CONG. REC. 22255, 95th Cong. 2d Sess., July 21, 1978 [H.R. 13311].

(8) A bill reported from the Committee on the Judiciary, making annual authorizations for the Department of Justice—referred to the Committee on Interstate and Foreign Commerce (due to its jurisdiction over the Drug Enforcement Administration within the department) and to the Permanent Select Committee on Intelligence (due to its jurisdiction over the intelligence and intelligence-related activities of the department, principally the FBI). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 23, 1979 [H.R. 3303].

(9) A bill initially referred to the Committee on Interior and Insular Affairs, not only authorizing appropriations for the Water Resources Council but also amending the Water Resource Planning Act to confer management control upon that agency over water resources projects administered by the Corps of Engineers and by the Secretary of Agriculture as well as reclamation projects administered by the Secretary of the Interrior—referred jointly to the Committee on Agriculture and Public Works and Transportation for consideration of matters within their respective jurisdictions. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 15, 1979 [H.R. 2610].

(10) A bill initially referred to the Committee on Interior and Insular Affairs, establishing a marine national park to protect not only scenic, ecological, archeological, cultural, and scientific values, but also to protect wildlife and marine resources—referred to the Committee on Merchant Marine and Fisheries for consideration of such matters as fell within its jurisdiction over fisheries and wildlife. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 15, 1979 [H.R. 2975].

(11) A bill reported from the Committee on Interstate and Foreign Commerce, amending the Natural Gas Pipeline Safety Act to regulate the operations of pipelines transporting natural gas and liquified petroleum gas and to provide standards with respect to the siting, construction, and operation of liquified natural gas facilities—referred to the Committee on Public Works and Transportation for consideration of such portions of the measure as fell within its jurisdiction over transportation and transportation safety. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 51].

(12) A bill reported from the Committee on Merchant Marine and Fisheries, providing for the development of aquaculture (including aquatic plants)—referred to the Committee on Agriculture for consideration of such matters as fell within its jurisdiction (over agriculture generally, agricultural production and marketing, nutrition, and the plant industry). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 20].

(13) A bill reported from the Committee on Small Business, amending the Small Business Act and requiring all federal agencies to promulgate analyses for all rules with an impact of small business—referred to the Committee on the Judiciary for a time certain for consideration of such portions of the bill and amendments as fell within its jurisdiction over administrative procedure and rule-making by federal agencies. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 17, 1979 [H.R. 4660].

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(14) A bill reported from the Committee on Post Office and Civil Service placing a ceiling on all government expenditures during the last two months of a fiscal year—referred to the Committee on Government Operations. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 20, 1979.

(15) A bill permitting utilities to finance the installation of energy conservation measures, establishing an Energy Conservation Bank to provide financial assistance to purchasers of energy conserving improvements, to provide secondary financing authority for such improvements, and to improve the weatherization grant program—referred jointly to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce, for consideration of such portions of the bill as fell within their respective jurisdictions. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 26, 1979 [H.R. 5726].

(16) A bill reported from the Committee on Agriculture authorizing loan guarantees to any person (not confined to agricultural concerns and producers) for the construction and operation of alcohol fuel plants—referred to the Committee on Banking, Finance and Urban Affairs for consideration of such portions of the bill as fell within its jurisdiction over financial aid to commerce and industry. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 12, 1979 [H.R. 3905].

(17) A bill reported from the Committee on House Administration reorganizing the Government Printing Office, addressing the responsibilties of such office for printing for all government agencies, and abolishing the Joint Committee on Printing—referred to the Committee on Government Operations and the Committee on Rules. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 19, 1980 [H.R. 5424].

(18) A bill reported from the Committee on Science and Technology providing for a program of automotive research and development, and transferring to NASA all automotive research and technology activities being conducted by other agencies—referred to the Committee on Interstate and Foreign Commerce. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 6, 1980 [H.R. 4678].

(19) A bill reported by the Committee on Armed Services authorizing annual appropriations for the naval petroleum and oil shale reserves, and providing that petroleum placed in the strategic civilian reserve be held under conditions guaranteeing the exclusive use of such petroleum for the armed forces—referred to the Committee on Interstate and Foreign Commerce. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 15, 1980 [H.R. 7252].

(20) A bill reported from the Committee on Small Business to consolidate and modify certain programs under the Small Business Administration and Investment Acts—referred to the Committee on Merchant Marine and Fisheries, for consideration only of designated sections of the bill and committee amendment exempting Small Business Administration loans from the environmental impact requirements of the National Environmental Policy Act. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 19, 1980 [H.R. 6626].

(21) A bill reported from the Committee on Interior and Insular Affairs authorizing annual appropriations for the Nuclear Regulatory Commission—referred to the Committee on Interstate and Foreign Commerce pursuant to the provisions of clause 1(l) of Rule X and pursuant to a memorandum of understanding between those two committees. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 15, 1980 [H.R. 6628].

(22) A bill reported by the Committee on Science and Technology, establishing regional nuclear waste "demonstration" facilities characterized by the bill as noncommercial and not subject to regulation by the Nuclear Regulatory Commission—referred to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce, where it was indicated that the siting, construction, and operation of the facilities might require NRC approval

under existing statutes, and that the facilities constructed would be suitable and appropriate for commercial development. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 22, 1980 [H.R. 7418].

§ 5.13 A bill reported from the Committee on Interstate and Foreign Commerce, authorizing appropriations for carrying out the Noise Control Act, including the functions of the Federal Aviation Administration relative to aircraft noise, was sequentially referred for a time certain to the Committee on Public Works and Tranportation for consideration of such portions of the bill as fell within its jurisdiction over civil aviation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 3995]. In a related action of the same date, a bill reported from the Committee on Public Works and Transportation, providing for aviation safety and noise reduction and financial assistance to aircraft operators to carry out noise compatibility programs, was sequentially referred to the Committee on Interstate and Foreign Commerce for a time certain for consideration of such portions of the bill and amendment as fell within its jurisdiction over environmental health and safety, including noise control generally. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 3942].

§ 5.14 Pursuant to Rule X clause 5, the Speaker divided a bill to implement the Panama Canal Treaty of 1977 for reference to the Committees on International Relations, Merchant Marine and Fisheries, the Judiciary, and Post Office and Civil Service, for not to exceed a time certain. 125 CONG. REC. p. ....., 96th Cong, 1st Sess., Jan. 31, 1979 [H.R. 1716].

§ 5.15 The Speaker may, pursuant to his authority under Rule X clause 5, divide for reference an annual authorization bill for an executive department among those committees having jurisdiction over provisions within the separate titles of the bill. Thus, in one instance, the Speaker divided for reference to four committees, a bill authorizing annual appropriations for the Department of Energy. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 15, 1979 [H.R. 3000].

§ 5.16 The Speaker jointly referred to the Committee on Ways and Means and Interstate and Foreign Commerce for a time certain, a bill to limit expenses charged by hospitals supported both by social security payroll deductions and by general authorizations. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 6, 1979 [H.R. 2626].

§ 5.17 Pursuant to clause 5 of Rule X, the Speaker discharged from the Union Calendar and sequentially referred to the Committee on Ways and Means for a time certain two bills, one reported by the Committee on Interstate and Foreign Commerce and one reported from the Committees on Merchant Marine and Fisheries and Public Works and Transportation. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 20, 1980 [H.R. 85; H.R. 7020].

§ 6. Time Limitations on Referred Bills; Extensions

§ 6.1 Pursuant to Rule X clause 5, the Speaker may set a time limit on the initial referral of a bill to one or more committees. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 6, 1979 [H.R. 2626]. Rule X clause 5 permits the Speaker to set appropriate time limitations and to make "appropriate" provisions in the exercise of his referral authority. Accordingly, the Speaker may extend the time limit set for the consideration of referred bills, and has exercised such authority with respect to bills that have been jointly referred (125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 19, 1979 [H.R. 39]), sequentially referred (125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 30, 1979 [H.R. 2610]), or divided for reference (125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 10, 1979 [H.R. 1716]). In one instance, the Speak-

er extended the sequential referral of a bill jointly referred to two committees and also referred the bill to a third committee for the same time period. 122 CONG. REC. 16588, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12112]. See also 122 CONG. REC. 18747, 94th Cong. 2d Sess., June 16, 1976. Similarly, in the 95th Congress, the Speaker extended for a second additional period the time limit for consideration by the Committee on Interstate and Foreign Commerce of portions of a bill (the National Energy Act) which had been divided for reference for a time certain to that committee and other committees. 123 CONG. REC. 23483, 95th Cong. 1st Sess, July 18, 1977 [H.R. 6831].

§ 6.2 A bill reported from the Committee on Agriculture, amending the Forest and Rangeland Renewable Resources Planning Act of 1976, to create a management program for all national forest lands, including those created from the public domain, was sequentially referred for a period ending not later than a time certain on the following day to the Committee on Interior and Insular Affairs for consideration of matters within its jurisdiction under Rule X clause 1(j). 122 CONG. REC. 29274, 94th Cong. 2d Sess., Sept. 8, 1976 [H.R. 15069]. *Note:* The Committee on Interior and Insular Affairs reported the bill (after one day's consideration) without recommendation. For a one-day sequential referral to the Committee on Agriculture, see 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 20, 1980.

§ 6.3 Prior to the 95th Congress, the Speaker had no specific authority under Rule X clause 5(c) to impose time restrictions on committees to which bills and resolutions were initially referred. However, the 95th Congress adopted an amendment to Rule X clause 5(c) to permit the Speaker to impose a time limitation on the first committee(s) to consider a bill whether or not it is to be sequentially referred. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress]. See also 123 CONG. REC. 24167, 95th Cong. 1st Sess., July 20, 1977 [H.R. 8444], where the Speaker set a time limit for the consideration of a bill by the committee to which the bill was initially referred.

§ 6.4 Where the time period for the sequential reference of a bill to a committee ended on a day when the House was not in session, the committee filed its report with the Clerk, whose communication advising the Speaker of that fact was subsequently laid before the House. 123 CONG. REC. 15865, 95th Cong. 1st Sess., May 23, 1977. *Note:* This procedure avoided any question whether the committee had properly complied with the terms of the Speaker's referral.

§ 6.5 In one instance the Speaker, in sequentially referring a bill reported by standing committees to an ad hoc committee, did not set a date certain by which the bill must be reported by the committee to which referred. 123 CONG. REC. 22183, 95th Cong. 1st Sess., July 11, 1977 [H.R. 7893]. *Note:* No time limitation was set for the consideration of the bill by the ad hoc Committee on Energy primarily because it was anticipated that the bill would not be the measure reported by that committee (and also because the proposed deadline for action by the committee was not yet certain). The text of H.R. 7893, as perfected by amendments of several standing committees was reintroduced as H.R. 8444, which was eventually referred to and reported from the ad hoc Committee on Energy.

§ 6.6 Where a committee does not report a measure to the House on or before the date specified by the Speaker pursuant to his authority under Rule X clause 5, the Speaker may either extend the time limit for additional consideration by the committee or discharge the committee from further consideration and refer the measure to the appropriate calendar or to another committee. 123 CONG. REC. 22733, 95th Cong. 1st Sess., July 13, 1977

[H.R. 6831]. *Note:* In this instance, where the Speaker had divided a bill (the National Energy Act) for reference to five committees with directions to report by a certain date, the Speaker took the following actions on the date specified in the reference: (1) Referred to the ad hoc Committee on Energy the portions of the bill reported on that date by the Committees on Public Works and Transportation, Government Operations, and Ways and Means; (2) extended for an additional period the consideration by the Committee on Interstate and Foreign Commerce of the portions of the bill referred to it; and (3) discharged the Committee on Banking, Finance and Urban Affairs from further consideration of the bill and referred portions of the bill referred to that committee to the ad hoc Committee on Energy. For two other instances in which the Speaker discharged a committee from the further consideration of a sequentially referred bill which it had not reported to the House within the specified time period, see 124 CONG. REC. 12924, 95th Cong. 2d Sess., May 8, 1978 [H.R. 12250], and 124 CONG. REC. 13256, 95th Cong. 2d Sess., May 10, 1978 [H.R. 12240].

§ 6.7 Pursuant to Rule X clause 5, the Speaker may extend the time period for consideration of a bill by a committee to which it has been jointly referred for a time certain, where the other committee to which the bill has been referred has already reported the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 10, 1979 [H.R. 2626].

§ 6.8 Where a bill has been concurrently referred to two committees, and one committee reports the bill, the other committee may be discharged from the further consideration of the bill by unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 20, 1979 [H.R. 1885].

§ 7. Referrals to and From Special and Ad Hoc Committees

§ 7.1 The Speaker may, pursuant to his discretionary referral authority under Rule X clause 5, jointly refer a report of a select committee when filed with the Clerk to several standing committees of the House for their study. 122 CONG. REC. 3158, 94th Cong. 2d Sess., Feb. 16, 1976. *Note:* The committees to which the report was referred were selected on the basis of their legislative jurisdiction (not merely oversight) over aspects of the recommendations of the Select Committee on Intelligence.

§ 7.2 Pursuant to Rule X clause 5(c), the Speaker may refer bills to a special ad hoc committee appointed by him with the approval of the House (consisting of members of committees with legislative jurisdiction) to consider and report on any bill so referred. 123 CONG. REC. 894, 95th Cong. 1st Sess., Jan. 11, 1977. *Note:* The resolution [H. Res. 97] establishing an ad hoc Select Committee on the Outer Continental Shelf for the 95th Congress differed from the resolution establishing that committee for the 94th Congress (see § 3.9, supra), in that it permitted reference of more than one bill and the appointment of members from other committees on subsequent bills.

§ 7.3 The Speaker may refer to an ad hoc committee, established with the approval of the House, bills, resolutions, and other matters (including messages and communications) for the purpose of considering such matters and reporting to the House thereon, and the resolution creating such a committee may specify whether referrals to such a committee shall be by initial or sequential reference or by any of the other methods provided by Rule X clause 5. 123 CONG. REC. 11550, 95th Cong. 1st Sess., Apr. 21, 1977 [H. Res. 508, creating an ad hoc Committee on Energy to consider and report to the House on a message from the President

and on other messages and communications related thereto; authorizing the Speaker to sequentially refer to that committee bills or resolutions relating to the substance of the President's message; and authorizing initial reference to that committee of a bill or resolution incorporating recommendations of the committees with jurisdiction].

§ 7.4 The Speaker indicated that his reference of a bill or other matter to an ad hoc committee or to more than one committee, pursuant to his authority under Rule X clause 5, would not preclude a standing committee claiming jurisdiction from offering a motion for rereference of such matter under Rule XXII clause 4. 123 CONG. REC. 11550 et seq., 95th Cong. 1st Sess., Apr. 21, 1977. *Note:* The resolution [H. Res. 508] creating the ad hoc Committee on Energy was drafted to allow the President's message, his subsequent draft legislation and revisions, additions, and communications related thereto, to be referred solely to the ad hoc committee. However, the bills and resolutions implementing the draft legislation and the message were intended to be first considered by the committees with jurisdiction and then referred in sequence to the ad hoc committee, with the recommendations of those committees. The resolution permitted the referral to the ad hoc committee of a "clean" bill incorporating the recommendations of the various committees to which the draft legislation had been referred, with the ad hoc committee only authorized to recommend amendments thereto. The House rules direct that each legislative committee, to the maximum extent feasible, have responsibility for considering portions of legislation within its jurisdiction, and permit the Speaker "to make such other provision (for referral) as may be considered appropriate." See Rule X clause 5.

§ 7.5 Pursuant to Rule X clause 5, and to House Resolution 508, creating an ad hoc Committee on Energy with legislative jurisdiction over bills sequentially referred thereto by the Speaker, the Speaker referred sequentially to it a "clean" bill initially reported by the Committee on Banking, Finance and Urban Affairs consisting of that standing committee's version of a portion of the President's energy bill originally referred thereto. 123 CONG. REC. 24167, 95th Cong. 1st Sess., July 20, 1977 [H.R. 7893, to amend federal laws to provide financial and other assistance with respect to weatherization of dwelling units]. *Note:* A portion of H.R. 6831, the National Energy Act, had been referred to the Banking Committee as well as other committees with directions to report by July 13. Rather than reporting only its portion of H.R. 6831, the Banking Committee chose instead to introduce and report a "clean" bill.

§ 7.6 The Speaker referred a bill (the National Energy Act) for a time certain to the ad hoc Committee on Energy, pursuant to Rule X clause 5(b), and House Resolution 508 creating that committee and authorizing the Speaker to refer to it bills reported from standing committees relating to the President's energy message of April 20, 1977, or bills on initial reference incorporating the recommendations of standing committees with jurisdiction over the substance of the President's message. 123 CONG. REC. 24167, 95th Cong. 1st Sess., July 20, 1977 [H.R. 8444].

Chapter 17

Committees

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§ 42. Cost-estimate Requirements; Oversight Findings

§ 43. Time for Filing Report

§ 44. Status as Privileged; Calling Up

§ 45. Supplemental, Minority, and Additional Views

A. Creating and Organizing Committees

§ 1. In General

§ 1.1 *Note:* There are three types of committees that are common to the House—(1) standing committees, which are elected and which serve through the Congress for which elected, (2) special or select committees, which are appointed by the Speaker and which expire with their report or at the end of the session, and (3) joint committees, which are authorized by an Act of Congress, by joint or concurrent resolution and which take up matters of concern to both Houses.

§ 1.2 The House agreed to a resolution reported from the Committee on Rules, creating a select committee to study House committee jurisdiction, staffing, procedures and facilities and to report to the House. Under the resolution, committee membership and staff expenses were to be paid from the contingent fund on vouchers approved by the Speaker. 119 Cong. Rec. 2812-16, 93d Cong. 1st Sess., Jan. 31, 1973 [H. Res. 132, creating a select committee to study the operation of Rules X and XI]. See H. Rept. 93-916, Mar. 19, 1974.

§ 1.3 The Senate being a "continuing body," its committees remain in existence from one Congress to the next, and may be authorized to conduct investigations during the subsequent Congress. 116 Cong. Rec. 44456, 91st Cong. 2d Sess., Dec. 31, 1970, extending during the first two months of the 92d Congress the authority of the Committee on Government Operations to conduct investigations.

§ 1.4 The House adopted a resolution establishing a Commission on Administrative Review, consisting of eight Members and seven private citizens, to study the administrative services of the House, after rejecting a motion to recommit the resolution with instructions to establish a select committee to study accounting and allowance procedures of the House. 122 Cong. Rec. 21795-807, 94th Cong. 2d Sess., July 1, 1976 [H. Res. 1368]. See H. Doc. No. 95-23, Jan. 24, 1977.

§ 2. Standing Committees

§ 2.1 A resolution establishing a standing committee [but not specifically amending the rules of the House] is reported and called up as privileged by the Committee on Rules. 113 Cong. Rec. 9425, 9448, 90th Cong. 1st Sess., Apr. 13, 1967 [H. Res. 418, establishing a standing Committee on Standards of Official Conduct].

§ 2.2 The establishment of a new committee is sometimes proposed by way of an amendment to the House rules. 116 Cong. Rec. 26421, 91st Cong. 2d Sess., July 29, 1970.

§ 2.3 A resolution reported by the Committee on House Administration, providing for the payment of a standing committee's expenses from the contingent fund of the House, is reported and called up as privileged. 113 Cong. Rec. 26375, 90th Cong. 1st Sess., Sept. 21, 1967 [H. Res. 871, providing funds for the Committee on Standards of Official Conduct].

§ 2.4 A resolution providing for payment of a standing committee's expenses out of the contingent fund of the House is subject to a motion to recommit. 107 Cong. Rec. 2965, 2989, 87th Cong. 1st Sess., Mar. 1, 1961.

§ 2.5 By unanimous consent, the House agreed to consider on the following day a resolution authorizing payment of a standing committee's investigative expenses from the contingent fund, notwithstanding the fact that the report on the resolution from the Committee on House Administration would not be available for one calendar day as required by clause 32(a) Rule XI. 118 Cong. Rec. 19909, 92d Cong. 2d Sess., June 7, 1972 [H. Res. 839,

authorizing expenses for the Committee on Merchant Marine and Fisheries]. See also 119 CONG. REC. 37141, 37142, 93d Cong. 1st Sess., Nov. 15, 1973, where a supplemental committee funding resolution was called up as privileged by the Committee on House Administration although the report which had been filed the preceding day had not been available to Members for one calendar day as required by clause 32(b) of Rule XI.

§ 2.6 The House refused to agree to a resolution replacing funds used by a subcommittee on poverty created by the Committee on Education and Labor. 110 CONG. REC. 19711-14, 88th Cong. 2d Sess., Aug. 14, 1964 [H. Res. 663, to provide contingent funds for the Committee on Education and Labor].

§ 2.7 A resolution authorizing the Committee on Education and Labor to send four Members to the International Labor Organization Conference in Geneva, specifying the travel permitted at government expense, and permitting the use of local currencies for official business, was rejected by the House. 109 CONG. REC. 8512, 8518, 88th Cong. 1st Sess., May 14, 1963.

§ 2.8 The 94th Congress adopted the rules in existence at the close of the 93d Congress with amendments, which, inter alia, amended Rule X clause 2 changing the provision requiring any committee having more than 15 members to establish an oversight subcommittee, to require such subcommittees in committees larger than 20 members (to exempt the Rules Committee which would be increased to 16); and amended Rule X clause 6(c) directing that committees with more than 20 members, rather than 15, be required to establish at least four subcommittees. 121 CONG. REC. 20, 21, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5, adopting rules for the 94th Congress].

§ 3. Select Committees

§ 3.1 Select committees are often established by the House to investigate or to consider and report on a particular subject. A House resolution providing for the creation of a select committee is reported and called up as privileged by the Committee on Rules. 115 CONG. REC. 19080, 91st Cong. 1st Sess., July 10, 1969 [H. Res. 472, creating a Select Committee on the House Restaurant]. Similarly, a resolution amending the rules of the House to create a permanent select committee is privileged when reported from the Committee on Rules and is debatable for one hour under the control of the Member calling it up. 123 CONG. REC. 22932, 95th Cong. 1st Sess., July 14, 1977 [H. Res. 658, amending the rules of the House to establish a permanent Select Committee on Intelligence]. Conversely, a resolution providing for the establishment of a select committee is not privileged unless reported from the Committee on Rules, and unanimous consent is necessary to permit its consideration. 123 CONG. REC. 72, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 9, providing for the creation of a Select Committee on Assassinations].

§ 3.2 A resolution authorizing the Speaker to establish a select ad hoc committee for the consideration of a particular bill is privileged when offered from the floor at the Speaker's request pursuant to Rule X clause 5. 121 CONG. REC. 11271, 94th Cong. 1st Sess., Apr. 22, 1975 [H. Res. 412, establishing ad hoc Select Committee on the Outer Continental Shelf]. A resolution authorizing the Speaker to establish a select ad hoc committee for the consideration of a particular bill and similar subsequent bills is privileged when offered from the floor at the Speaker's request. 123 CONG. REC. 894, 95th Cong. 1st Sess., Jan. 11, 1977 [H. Res. 97, establishing an ad hoc Select Committee on the Outer Continental Shelf]. And a resolution creating an ad hoc committee to consider bills, resolutions, or other mat-

ters pursuant to Rule X clause 5(c), is privileged if offered from the floor at the Speaker's request. 123 CONG. REC. 11550 et seq., 95th Cong. 1st Sess., Apr. 21, 1977 [H. Res. 508, creating an ad hoc Committee on Energy].

§ 3.3 Examples of select committees that have been established at various times by the House include (1) a select committee to investigate and report on the welfare and education of congressional pages (110 CONG. REC. 23187, 88th Cong. 2d Sess., Sept. 30, 1964 [H. Res. 847]); (2) a Select Committee on Standards and Conduct (112 Cong. Rec. 21949, 89th Cong. 2d Sess., Sept. 7, 1966 [H. Res. 1013]); (3) a Select Committee on Small Business (117 CONG. REC. 4593, 92d Cong. 1st Sess., Mar. 2, 1971 [H. Res. 191]); (4) a select committee to investigate crime affecting the United States (117 CONG. REC. 5587, 92d Cong. 1st Sess., Mar. 9, 1971 [H. Res. 115]); (5) a Select Committee on the House Restaurant (117 CONG. REC. 7961, 92d Cong. 1st Sess., Mar. 25, 1971 [H. Res. 317]); (6) a select committee to investigate and report on campaign expenditures and practices by candidates for the House (118 CONG. REC. 5717, 92d Cong. 2d Sess., Feb. 28, 1972 [H. Res. 819]); (7) a Select Committee on Intelligence (121 CONG. REC. 3613, 94th Cong. 1st Sess., Feb. 19, 1975 [H. Res. 138]); (8) a select committee to study the problem of U.S. servicemen missing in action in Southeast Asia (121 CONG. REC. 28565-67, 94th Cong. 1st Sess., Sept. 11, 1975 [H. Res. 335]); and (9) a Select Committee on Narcotics Abuse and Control, without legislative jurisdiction, to study and review the problems of narcotics abuse and control, to review executive recommendations relative to that subject, and to make recommendations to the appropriate legislative committees (125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 21, 1979 [H. Res. 131]).

§ 3.4 The House adopted a resolution establishing a select committee to investigate research programs, providing for appointment of a chairman and members by the Speaker, and specifying the powers and jurisdiction of the committee. 109 CONG. REC. 16744, 16754, 88th Cong. 1st Sess., Sept. 11, 1963 [H. Res. 504]. See also 111 CONG. REC. 411, 89th Cong. 1st Sess., Jan. 7, 1965, where the House adopted a resolution authorizing designated staff members of the Select Committee on Research and Development (which expired with the 88th Congress) to compile in the 89th Congress a summary report of the work of the committee, authorizing funds for the payment of the personnel (out of the contingent fund of the House), and giving the Committee on House Administration certain supervisory responsibilities over the personnel so employed.

§ 3.5 In a number of Congresses, the House has by a privileged resolution established a special committee to investigate campaign practices or expenditures. 108 CONG. REC. 16000, 16012, 87th Cong. 2d Sess., Aug. 9, 1962 [H. Res. 753]; 112 CONG. REC. 19080, 89th Cong. 2d Sess., Aug. 11, 1966 [H. Res. 929, authorizing the Speaker to appoint a Special Committee on Campaign Expenditures]; 114 CONG. REC. 24770, 90th Cong. 2d Sess., Aug. 1, 1968 [H. Res. 1239, authorizing the Speaker to appoint a Special Committee on Campaign Expenditures]; 114 CONG. REC. 25065, 90th Cong. 2d Sess., Aug. 2, 1968 [resolution providing for payment from the contingent fund of expenses of the Select Committee to Investigate Campaign Expenditures]; 116 CONG. REC. 27125, 91st Cong. 2d Sess., Aug. 4, 1970 [H. Res. 1062, authorizing the Speaker to appoint a select committee to investigate campaign expenditures]. *Note:* No such committee has been established since 1972, because the Committee on House Administration has carried out the functions of this committee.

§ 3.6 Formerly a resolution providing funds for a select committee out of the contingent fund of the House, reported from the Committee on House Administration, was both reported and called up as privileged. 115 CONG.

REC. 22546, 91st Cong. 1st Sess., Aug. 6, 1969 [H. Res. 508, funds for the Select Committee on the House Restaurant].

§ 3.7 Presently, a privileged resolution reported from the Committee on House Administration providing for payment from the contingent fund of expenses of a select committee is subject to the three-day availability requirement of Rule XI clause 2(l)(6) and may be considered the same day reported only by unanimous consent. 121 CONG. REC. 32532, 94th Cong. 1st Sess., Oct. 9, 1975 [H. Res. 744, providing funds for expenses of the Select Committee on Missing Persons in Southeast Asia]. *Note:* Funding resolutions reported from House Administration providing expenses for standing committees are privileged for consideration the day after the report is available to Members (Rule XI clause 5).

§ 3.8 A resolution reported from the Committee on House Administration providing funds for a select committee was called up as privileged under the one-day layover provisions of Rule XI clause 5(a), although that rule applies only to expense resolutions for standing committees. 121 CONG. REC. 15852, 94th Cong. 1st Sess., May 22, 1975 [H. Res. 427, providing expenses for an ad hoc Select Committee on the Outer Continental Shelf]. *Note:* While resolutions from House Administration providing payment out of the contingent fund are generally privileged [Rule XI clause 4(a)], only those which provide expenses for standing committees may be called up one day after the report is available to Members [Rule XI clause 5(a)], and all others are subject to the three-day layover requirement of Rule XI clause 2(l)(6).

§ 3.9 The House adopted a resolution reported from the Committee on Rules, establishing a new Select Committee on Intelligence to consist of 13 members appointed by the Speaker, abolishing a similar select committee previously established and transferring all records of the former committee to the newly created committee. 121 CONG. REC. 23242, 23256, 94th Cong. 1st Sess., July 17, 1975 [H. Res. 591, establishing a Select Committee on Intelligence]. In 1977, the House adopted a resolution amending the rules of the House by adding a new Rule XLVIII, creating a permanent Select Committee on Intelligence. 123 CONG. REC. 22932, 95th Cong. 1st Sess., July 14, 1977 [H. Res. 658]. In the 96th Congress, the House amended Rule XLVII clause 1(a) to increase the membership of the Permanent Select Committee on Intelligence from 13 to 14. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 25, 1979 [H. Res. 70].

§ 3.10 The House agreed to a priviledged resolution reported from the Committee on Rules, establishing a select committee to investigate the assassinations of President Kennedy and Martin Luther King, Jr., and others as determined by the select committee. 122 CONG. REC. 31028, 94th Cong. 2d Sess., Sept. 17, 1976 [H. Res. 1540]. In the 95th Congress, privileged resolutions were reported from the Committee on Rules continuing the Select Committee on Assassinations. 123 CONG. REC. 9563, 95th Cong. 1st Sess., Mar. 30, 1977 [H. Res. 433]. See also H. Res. 222, Feb. 2, 1977. *Note:* The House adopted two amendments to this resolution, one bringing the select committee staff under the provisions of Rule XI clause 6(a)(3), which, *inter alia,* prohibits staff from engaging in work other than committee business, and another amendment removing the power of the select committee to bring, defend, and intervene in lawsuits and make applications to courts.

§ 3.11 The House established an ad hoc Select Committee on the Outer Continental Shelf, consisting of members of the Committees on Interior and Insular Affairs, Judiciary, and Merchant Marine and Fisheries, to consider the bill referred thereto by the resolution, together with members of other committees having jurisdiction over portions of other bills subsequently referred by the Speaker. 123

CONG. REC. 894, 95th Cong. 1st Sess., Jan. 11, 1977 [H. Res. 97, establishing an ad hoc Select Committee on the Outer Continental Shelf]. *Note:* This resolution differed from that of the 94th Congress, establishing the original ad hoc Select Committee on the Outer Continental Shelf (see § 3.2, supra), in that it: (1) Permitted reference of more than one bill and the appointment of members from other committees on subsequent bills; and (2) was made effective on January 3, 1977, to cover funding on an interim basis until the annual expense resolution for the ad hoc committee was adopted. In the 96th Congress, the House adopted a resolution reported from the Committee on Rules establishing a Select Committee on the Outer Continental Shelf, without legislative jurisdiction, effective January 3, 1979, and authorizing the select committee to study resources on the Outer Continental Shelf and to provide support, assistance, and recommendations to certain committees. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 29, 1979 [H. Res. 53]. *Note:* The legislative jurisdiction of the committee having been abolished, communications relating to the Outer Continental Shelf Lands Act, and resolutions disapproving executive branch actions pursuant to that statute, were not referred to the select committee but to the committee or committees having jurisdiction over resources on the Shelf (primarily the Committee on Interior and Insular Affairs). For resolutions providing funds for the expenses of the select committee, see 124 CONG. REC. 8653, 95th Cong. 2d Sess., Apr. 4, 1978 [H. Res. 1045], and 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 5, 1979 [H. Res. 195].

§ 3.12 The House rejected a privileged resolution reported from the Committee on Rules recreating a Select Committee on Professional Sports. 123 CONG. REC. 6447, 95th Cong. 1st Sess., Mar. 7, 1977 [H. Res. 111].

§ 3.13 The Committee on Rules reported as privileged and the House adopted a resolution creating a Select Committee on Ethics, with legislative jurisdiction to consider and report bills incorporating into permanent law the provisions of House rules dealing with financial ethics of Members, officers, and employees, and with jurisdiction to promulgate implementing regulations and to issue advisory opinions. 123 CONG. REC. 6811, 95th Cong. 1st Sess., Mar. 9, 1977 [H. Res. 383].

§ 3.14 The House adopted a resolution, as amended and reported by the Committee on Rules, creating a Select Committee on Congressional Operations to continue the work of the former Joint Committee on Congressional Operations; authorizing the select committee to study on a continuing basis the organization and operation of Congress and to recommend improvements, to identify court proceedings of vital interest to the Congress or to the House, and to study on a continuing basis the jurisdictions and workloads of standing committees and to make recommendations to the Committee on Rules on that subject; providing that the select committee not have legislative jurisdiction and avoid conflict or duplication with the activities of other committees, commissions, and entities of the House; making clauses 1, 2, and 3 of Rule XI applicable to the select committee insofar as applicable (thereby denying subpena power to the select committee); directing the select committee to supervise the Office of Placement and Office Management; and authorizing the select committee to incur expenses to carry out its duties, subject to the adoption of expense resolutions as required by Rule XI clause 5. 123 CONG. REC. 9247, 95th Cong. 1st Sess., Mar. 28, 1977 [H. Res. 420].

§ 3.15 The House adopted a resolution creating (pursuant to Rule X clause 5), an ad hoc Committee on Energy to consider and report to the House on a message from the President and on other messages and communications related thereto; authorizing the Speaker to appoint to said committee members from

committees with subject-matter jurisdiction over the President's message and such other committees as the Speaker determines to insure expeditious consideration and reporting; and authorizing the utilization of the services of the staffs of such committees. 123 CONG. REC. 11550, 95th Cong. 1st Sess., Apr. 21, 1977 [H. Res. 508, 509, creating an ad hoc Committee on Energy]. The Speaker subsequently announced his appointment of additional members to the ad hoc Committee on Energy and their ranking thereon, pursuant to the resolutions creating the committee and a subsequent resolution authorizing him to appoint additional Members thereto. 123 CONG. REC. 11819, 95th Cong. 1st Sess., Apr. 22, 1977.

§ 3.16 The House adopted a privileged resolution reported from the Committee on Rules with a committee amendment in the nature of a substitute establishing a Select Committee on Population to be composed of 16 Members appointed by the Speaker; authorizing and directing that committee to conduct a study and investigation of worldwide changing population conditions and their consequences, population characteristics and their effect on standards of living, approaches to population planning, and cooperative efforts by the United States in addressing population-related issues; providing that clauses 1, 2, and 3 of Rule XI, except with respect to subpena power, apply to the select committee; and for the reference of its final report to the standing committees of jurisdiction. 123 CONG. REC. 31315, 95th Cong. 1st Sess., Sept. 28, 1977 [H. Res. 70].

§ 3.17 In the 96th Congress, the House rejected a resolution reported from the Committee on Rules establishing a Select Committee on Population. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 21, 1979 [H. Res. 38].

§ 3.18 In the 96th Congress, the House passed a privileged resolution reported from the Committee on Rules creating a Select Committee on Committees to conduct a study (with respect to Rules X, XI, and XLVIII) of committee structure, the number of committees and their jurisdiction, committee rules and procedures, media coverage, staffing, space, equipment, and facilities. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 19, 1979 [H. Res. 118]. The select committee was authorized to report to the House by bill or resolution (but was given no legislative jurisdiction and could not be referred bills); its reported resolution recommending the creation of a new Committee on Energy was numbered on filing and referred to the House Calendar. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 30, 1980 [H. Res. 549].

§ 4. Joint Committees

§ 4.1 A privileged concurrent resolution, establishing a Joint Committee on the Organization of the Congress, was reported by the House Committee on Rules. 111 CONG. REC. 3995, 89th Cong. 1st Sess., Mar. 3, 1965 [H. Con. Res. 4].

§ 4.2 A concurrent resolution providing for a joint committee to study the organization and operation of the Congress was agreed to by the House. 111 CONG. REC. 4768-80, 89th Cong. 1st Sess., Mar. 11, 1965. *Note:* Following the passage of H. Con. Res. 4, S. Con. Res. 2 (an identical resolution) was taken from the Speaker's table and agreed to. The language of this concurrent resolution was substantially identical to that employed in the 79th Congress in setting up the joint committee which resulted in the Legislative Reorganization Act of 1946. See H. Con. Res. 18, 91 CONG. REC. 346, 347, 79th Cong. 1st Sess., Jan. 18, 1945.

§ 4.3 A Special Committee on the Organization of the Congress (composed of the Senate members of the Joint Committee on Organization) was established in the Senate to receive, consider and report on a bill encompassing the legislative recommendations of the joint com-

mittee. 112 CONG. REC. 20758, 89th Cong. 2d Sess., Aug. 26, 1966 [S. Res. 293, creating a special committee on organization of the Congress].

§ 4.4 A concurrent resolution continuing the Joint Committee on the Organization of the Congress, established by concurrent resolution in the 89th Congress, and providing additional funds for its operation, was agreed to by the House. 113 CONG. REC. 2081, 90th Cong. 1st Sess., Jan. 31, 1967.

§ 4.5 The House passed a joint resolution establishing a Joint Committee on the Environment. 117 CONG. REC. 26202, 92d Cong. 1st Sess., July 20, 1971 [H. Res. 424, providing for consideration of H.J. Res. 3].

§ 4.6 The House agreed to a joint resolution creating a Joint Committee to Investigate Crime. 114 CONG. REC. 21012, 90th Cong. 2d Sess., July 12, 1968 [H.J. Res. 1].

§ 4.7 *Note:* A motion to recommit a joint resolution reported by the Committee on Rules, creating a joint committee of Congress, can be made in order where the joint resolution contains nonprivileged matter (an authorization for appropriations) and is therefore not privileged under clause 23 Rule XI. 117 CONG. REC. 26202, 92d Cong. 1st Sess., July 20, 1971 [H. Res. 424, providing for consideration of H.J. Res. 3, to establish a Joint Committee on the Environment, and authorizing one motion to recommit].

§ 4.8 The House adopted a privileged resolution electing Members to serve with the Chairman of the Committee on House Administration on the Joint Committee on Printing (under 44 USC § 101) and the Joint Committee on the Library of Congress (under 2 USC § 132b). 123 CONG. REC. 6817, 95th Cong. 1st Sess., Mar. 9, 1977 [H. Res. 389].

§ 4.9 The House and Senate having amended their rules in the 95th Congress to remove the legislative jurisdiction of the Joint Committee on Atomic Energy and to allocate that jurisdiction to various standing committees, the House subsequently considered (by unanimous consent) a Senate bill amending the Atomic Energy Act to abolish the joint committee, with an amendment transferring its files to the respective House and Senate committees of jurisdiction. 123 CONG. REC. 27184, 27186, 27187, 95th Cong. 1st Sess., Aug. 5, 1977 [S. 1153].

§ 5. Chairmen of Committees

§ 5.1 Under Rule XI clause 27(d)(1), the chairman of a committee has the duty and the responsibility to see that a measure approved by his committee is reported to the House and called up for consideration; and his obligations in these regards are not reduced by his personal opposition to the measure. 113 CONG. REC. 15822, 90th Cong. 1st Sess., June 14, 1967, where the chairman of a committee explained his opposition to a bill reported by his committee and his decision to turn over its management to the ranking member of the committee.

§ 5.2 The chairman of a standing committee is elected by resolution adopted by the House. 109 CONG. REC. 10187, 88th Cong. 1st Sess., June 5, 1963 [H. Res. 338, electing the Chairman of the Committee on Un-American Activities].

§ 5.3 A resolution providing for the election of the chairman of a standing committee of the House is called up as privileged. 116 CONG. REC. 37823, 91st Cong. 2d Sess., Nov. 18, 1970 [H. Res. 1263, electing a Chairman of the Committee on Government Operations].

§ 5.4 The House by resolution elects a chairman of a standing committee, [a vacancy having been created by death of the former chairman]. 107 CONG. REC. 20549, 87th Cong. 1st Sess., Sept. 21, 1961.

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§ 5.5 The House adopted a privileged resolution electing a Member Chairman of the Committee on Armed Services during the final three days of the 91st Congress, to fill a vacancy. 116 CONG. REC. 44163, 91st Cong. 2d Sess., Dec. 30, 1970.

§ 5.6 A resolution electing a Chairman of the Committee on Merchant Marine and Fisheries [a vacancy having been created by the death of the former chairman] was offered by the Chairman of the Committee on Ways and Means in his capacity as Chairman of the majority party's Committee on Committees. 112 CONG. REC. 6, 89th Cong. 2d Sess., Jan. 10, 1966.

§ 5.7 A resignation as chairman of a standing committee does not remove that member from the committee; he automatically becomes the ranking majority member next in seniority to the newly elected chairman absent a contrary action by the House. 121 CONG. REC. 2369, 94th Cong. 1st Sess., Feb. 5, 1975.

§ 5.8 The chairmen of two standing committees, under indictment for felonies for which a sentence of two or more years could be imposed, relinquished their duties pursuant to caucus rule. The next ranking majority members on those committees served as acting chairmen for the remainder of the Congress. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 18, 1980.

§ 6. Members of Committees

§ 6.1 In both the House and Senate, the party ratios on standing committees tend to reflect the relative membership of the two parties in the House or Senate as a whole. Sometimes, however, the membership of a committee is equally divided between the majority and minority parties. See 113 CONG. REC. 9425, 9448, 90th Cong. 1st Sess., Apr. 13, 1967, where membership of the standing Committee on Standards of Official Conduct was fixed at 12, six members from the majority party in the House, and six from the minority. [H. Res. 418, establishing a standing Committee on Standards of Official Conduct.] See also 110 CONG. REC. 22369, 88th Cong. 2d Sess., Sept. 21, 1964, where the Senate majority leader announced that the change in party affiliation by a Senator might necessitate a change in party ratios on certain committees, depending on the committee assignment given the Senator.

§ 6.2 A resolution providing for the election of a Member to a standing committee of the House is presented as privileged. 112 CONG. REC. 27486, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Res. 1066, electing a Member to the Committee on Interstate and Foreign Commerce]; 115 CONG. REC. 18608, 91st Cong. 1st Sess., July 8, 1969 [electing a Member to the Committee on Agriculture].

§ 6.3 Members are elected to the standing committees of the House by resolution. 113 CONG. REC. 11281, 90th Cong. 1st Sess., May 1, 1967 [H. Res. 457, electing Democratic Members; H. Res. 458, electing Republican Members]. See also 108 CONG. REC. 263, 87th Cong. 2d Sess., Jan. 16, 1962, for a resolution electing Members to the Committee on Ways and Means. Such resolutions are debatable under the hour rule. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 15, 1980 [H. Res. 669].

§ 6.4 A resolution electing Members to vacancies on several standing committees was agreed to by the House. 109 CONG. REC. 13336, 88th Cong. 1st Sess., July 25, 1963.

§ 6.5 The House adopted a resolution electing a Member to a committee of the House and designating his rank thereon. 107 CONG. REC. 11797, 87th Cong. 1st Sess., June 29, 1961.

§ 6.6 The House by a single resolution has elected Members to various committees of the

House. 113 CONG. REC. 1086, 90th Cong. 1st Sess., Jan. 23, 1967.

§ 6.7 The House adopted a privileged resolution, offered from the floor by the Chairman of the Democratic Caucus, electing [incumbent] members of the majority to certain committees until March 1, 1973 or until adoption prior to that date of resolutions providing otherwise. 119 CONG. REC. 380, 93d Cong. 1st Sess., Jan. 6, 1973 [H. Res. 95, 96, 97, electing Democratic Members to the Committees on Appropriations, Rules and House Administration]. *Note:* These resolutions reflected the policy of the Democratic Caucus that it approve of all recommendations submitted by its Committee on Committees (which had not then been organized), yet permitted the named committees to be able to transact organizational business at the beginning of the session.

§ 6.8 The House adopted a resolution electing the sitting members of the Committee on Un-American Activities to the newly created Committee on Internal Security and rereferring all bills and other papers pending before the Committee on Un-American Activities to the new committee. 115 CONG. REC. 3747, 91st Cong. 1st Sess., Feb. 18, 1969.

§ 6.9 A Member [who was also the majority leader] was elected to the Committee on Science and Astronautics. 107 CONG. REC. 7965, 87th Cong. 1st Sess., May 15, 1961.

§ 6.10 The Committee on Rules is considered by the Republican Committee on Committees to be an "exclusive" committee; therefore, Republican Members of the Committee on Rules are not generally permitted to hold assignments on the other standing committees. 112 CONG. REC. 2383, 89th Cong. 2d Sess., Feb. 7, 1966.

§ 6.11 The Resident Commissioner from Puerto Rico and the Delegates to the House are elected to committees in the same manner as Members and enjoy the same powers and privileges in committees as other Members. Rule XII. See 117 CONG. REC. 11151, 92d Cong. 1st Sess., Apr. 21, 1971, where, by privileged resolution, the House elected the Delegate from the District of Columbia to the Committee on the District of Columbia pursuant to clause 2 Rule XII.

§ 7. Appointments to Select Committees or Commissions

§ 7.1 The Speaker appoints the chairmen and members of select committees; such appointments are generally made by the Speaker immediately after the adoption of the resolution creating the committee. 109 CONG. REC. 16744, 16754, 88th Cong. 1st Sess., Sept. 11, 1963 [appointments to a select committee to investigate research programs]; 112 CONG. REC. 28112, 89th Cong. 2d Sess., Oct. 20, 1966 [appointments to Select Committee on Standards and Conduct]; 113 CONG. REC. 17792, 90th Cong. 1st Sess., June 28, 1967 [appointments to Select Committee on Parking]; 114 CONG. REC. 25064, 90th Cong. 2d Sess., Aug. 2, 1968 [appointments to Special Committee on Campaign Expenditures]; 115 CONG. REC. 19080, 91st Cong. 1st Sess., July 10, 1969 [appointments to the Select Committee on the House Restaurant].

§ 7.2 Both the majority and minority members of the Select Committee on Small Business were appointed by the Speaker. 107 CONG. REC. 1820, 87th Cong. 1st Sess., Feb. 7, 1961; and 107 CONG. REC. 2271, 87th Cong. 1st Sess., Feb. 17, 1961. *Note:* The Republican Members did not hold a caucus to ratify the recommendations of their Committee on Committees until after the session of the House on February 9, 1961. The majority members were appointed by the Speaker so that the committee could organize and the chairman might certify the employment of staff personnel.

§ 7.3 The Speaker announced his appointments to the special committee to report to the

House on the right of Adam C. Powell to be sworn in as a Representative from the state of New York. 113 CONG. REC. 1037, 90th Cong. 1st Sess., Jan. 19, 1967.

§ 7.4 The Speaker announces to the House the fact that he has, pursuant to law, made an appointment during a recess to fill a vacancy on a select committee. 106 CONG. REC. 1822, 86th Cong. 2d Sess., Feb. 2, 1960.

§ 7.5 The Speaker appoints himself and the majority and minority leaders as members of the Joint Committee on the Inauguration. 114 CONG. REC. 15870, 90th Cong. 2d Sess., June 4, 1968.

§ 7.6 The Speaker appointed three women Members of the House to serve on the Select Committee on the House Beauty Shop. 113 CONG. REC. 35143, 90th Cong. 1st Sess., Dec. 6, 1967.

§ 7.7 The Speaker has appointed Members to a commission, established by law, prior to the date on which the commission was to become effective pursuant to that law. 117 CONG. REC. 46530, 92d Cong. 1st Sess., Dec. 13, 1971.

§ 7.8 The Speaker announced to the House his appointment of a Member to fill a vacancy on the Joint Commission on Coinage. 115 CONG. REC. 12330, 91st Cong. 1st Sess., May 13, 1969.

§ 7.9 Pursuant to Rule X clause 6(e), the Speaker appoints all members of a permanent select committee. 121 CONG. REC. 2635, 94th Cong. 1st Sess., Feb. 6, 1975 [Select Committee on Aging].

§ 7.10 The Speaker appointed as members of the ad hoc Select Committee on the Outer Continental Shelf members from the Committees on Merchant Marine and Fisheries, Judiciary, and Interior and Insular Affairs—the committees with legislative jurisdiction over the particular bill referred to the ad hoc select committee. 121 CONG. REC. 11261, 94th Cong. 1st Sess., Apr. 22, 1975 [H. Res. 412, establishing ad hoc Select Committee on the Outer Continental Shelf].

§ 7.11 The Speaker may, by unanimous consent, appoint additional members to a special ad hoc committee which has already been appointed. 121 CONG. REC. 13093, 94th Cong. 1st Sess., May 6, 1975 [ad hoc Select Committee on the Outer Continental Shelf].

§ 7.12 By unanimous consent, the Speaker appointed an additional member to the Select Committee on Aging to rank ahead of other members previously appointed. 121 CONG. REC. 2874, 94th Cong. 1st Sess., Feb. 10, 1975. The Speaker may appoint additional members of the permanent Select Committee on Aging only by unanimous consent. 123 CONG. REC. 2633, 95th Cong. 1st Sess., Jan. 31, 1977. In 1979, by unanmous consent, the Speaker appointed additional members to the Select Committee on Aging and reappointed members previously designated. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 21, 1979.

§ 7.13 The Speaker laid before the House and referred to the Committee on House Administration communications from the Majority and Minority Leaders submitting their respective recommendations for appointment to membership on the Federal Election Commission. 121 CONG. REC. 1680, 94th Cong. 1st Sess., Jan. 29, 1975.

§ 7.14 The Speaker announced the terms of office to which two nominees had been recommended to serve as members of the Federal Election Commission pursuant to Public Law No. 93-443 § 310(a)(1)(B). 121 CONG. REC. 1680, 94th Cong. 1st Sess., Jan. 29, 1975. *Note:* Under the statute, the Speaker's appointment authority only becomes effective after both Houses have confirmed the recommended nominees. The statute is silent on the question of referral of the recommendations to House Administration, but since the Senate recommendations had been referred to the commit-

tee for hearings, the Speaker decided to refer the leaders' recommendations.

§ 7.15 The Speaker announced the appointment of two persons as members of the Federal Elections Commission, their nominations having been confirmed by both the House and the Senate. 121 CONG. REC. 10064, 94th Cong. 1st Sess., Apr. 14, 1975.

§ 7.16 *Note:* In reviewing the Federal Election Campaign Act Amendments of 1974 (Pub. L. No. 93-443, 83 Stat. 1263), the United States Supreme Court held that the procedure for appointing members of the Federal Election Commission by the Speaker of the House and President pro tempore of the Senate violated article II, section 2, clause 2, the Appointments Clause, which provides that the President shall nominate, and with the advice and consent of the Senate, appoint all "Officers of the United States." In reaching this holding the Court found that members of the commission were "Officers of the United States" whom only the President could nominate and, with the advice and consent of the Senate, appoint. This finding was based on the fact that the Federal Election Commission was granted not only investigatory and information-gathering functions which may constitutionally be exercised by Congress, but also rule-making and enforcement powers which have been delegated to other branches of government. The Speaker and President pro tempore may appoint members to commissions whose authority is restricted to investigation and information gathering. Buckley v Valeo, 424 U.S. 1 (1976).

§ 7.17 Where the House has established a select committee consisting of Members appointed by the Speaker, the Speaker has no authority to appoint a Delegate or the Resident Commissioner to such select committee absent special permission of the House. Thus, in one instance, by unanimous consent, the Speaker was authorized to appoint the Delegate from the District of Columbia to the Select Committee to Investigate Assassinations. 122 CONG. REC. 31673, 94th Cong. 2d Sess. Sept. 21, 1976. *Note:* Under Rule X clause 6(e), the Speaker may appoint all select committees ordered by the House, and under clause 6(f), as amended in the 96th Congress, may appoint a Delegate or the Resident Commissioner to a conference or select committee. See also 123 CONG. REC. 33763, 95th Cong. 1st Sess., Oct. 14, 1977, where the House by unanimous consent authorized the Speaker to appoint the Resident Commissioner from Puerto Rico to the Select Committee on Population.

§ 7.18 In April 1977, the Speaker announced his appointment, effective January 4, 1977, of Members to the Commission on Security and Cooperation in Europe. 123 CONG. REC. 12860, 95th Cong. 1st Sess., Apr. 29, 1977. *Note:* It had been maintained at the convening of the 95th Congress that appointments to the Commission were permanent, regardless of the expiration of the Congress in which made, and that reappointment by the Speaker was not necessary. However, since the House is not a continuing body and Members are only appointed to the Commission by virtue of their new House membership, it was determined that the long-standing practice of reappointing Commissioners in a new Congress should be followed; and to avoid any question as to the validity of the Commissioners' actions prior to the time of appointment, the appointment was made retroactive.

§ 8. Seniority Considerations

§ 8.1 Committee seniority is shown by the order in which the Members' names are listed on the resolution electing them to a committee; and where an error was made in the order of names in a resolution, the House, by unanimous consent, vacated the proceedings, reconsidered the matter, and agreed to a corrective amendment putting the names in proper order. 115 CONG. REC. 2433, 2434, 91st Cong. 1st

Sess., Feb. 3, 1969 [H. Res. 176, changing the order of names on a resolution electing Members to various committees of the House].

§ 8.2 Where, as a matter of party policy, the Democratic Caucus instructed the Committee on Committees to assign the "last position" on a committee to a particular Member (for party disciplinary reasons), and the House agreed to a resolution with a new listing of electees, other Members, subsequently elected to the same committee, rank junior to them in committee seniority. 112 CONG. REC. 27486, 89th Cong. 2d Sess., Oct. 18, 1966.

§ 8.3 By unanimous consent, the House vacated the proceedings whereby it had, on a preceding day, agreed to a resolution electing minority members of the Committee on Rules, and then amended the resolution to adjust the seniority of the two ranking members on that committee. 119 CONG. REC. 2313, 93d Cong. 1st Sess., Jan. 26, 1973 [H. Res. 99]. (When he was elected Chairman of the Republican Conference, a Member was required, under the rules of that conference, to relinquish his position as ranking minority member of the Rules Committee.) In a similar instance in the 96th Congress, after the ranking minority member of a standing committee—the Committee on Interstate and Foreign Commerce—had been elected Chairman of the Republican Conference, and submitted his resignation as ranking minority member of that committee pursuant to a conference rule prohibiting concurrent holding of both positions, the House passed a privileged resolution, offered by the Minority Leader by direction of the Republican Conference, reelecting the resigned ranking minority member of a committee to rank second behind the new ranking minority member. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 27, 1979 [H. Res. 242]. *Note:* Rather than adopt a resolution reelecting all minority members of the committee in a new order of seniority, the House merely reelected the resigned member and ranked him second.

§ 9. Increasing Committee Membership

§ 9.1 The membership of the standing committees of the House may be increased for a particular Congress by a resolution considered by unanimous consent. 105 CONG. REC. 841, 86th Cong. 1st Sess., Jan. 19, 1959; 111 CONG. REC. 636, 89th Cong. 1st Sess., Jan. 13, 1965; 113 CONG. REC. 445, 90th Cong. 1st Sess., Jan. 16, 1967.

§ 9.2 Membership on the Joint Economic Committee, established by law, was increased from 16 to 20 members—the total number including 10 from the Senate and 10 from the House. 113 CONG. REC. 1099, 90th Cong. 1st Sess., Jan. 23, 1967 [S. 376].

§ 9.3 The House adopted a resolution increasing the membership of the Committee on Agriculture for the remainder of the 91st Congress. 115 CONG. REC. 18608, 91st Cong. 1st Sess., July 8, 1969. *Note:* The permanent Record was corrected to show that this resolution was called up by unanimous consent and was not considered as privileged. However, such a resolution, in effect amending the rules of the House, would have a privileged status if reported from the Committee on Rules.

§ 9.4 A resolution increasing the membership of the Committee on Banking and Currency for the remainder of the 88th Congress was adopted by the House. 109 CONG. REC. 12184, 88th Cong. 1st Sess., July 8, 1963.

§ 9.5 The House adopted a resolution increasing the membership of the Committee on Merchant Marine and Fisheries for the remainder of the 89th Congress. 112 CONG. REC. 7142, 89th Cong. 2d Sess., Mar. 29, 1966. *Note:* The former rule provided for a membership of 25. H. Res. 107, adopted by the House on January 13, 1965, increased the size to 31 members.

§ 9.6 The House adopted a resolution increasing the membership of the Committee on Interior and Insular Affairs and Science and Astronautics for the 87th Congress. 107 CONG. REC. 10939, 87th Cong. 1st Sess., June 21, 1961.

§ 9.7 By unanimous consent, the House considered and agreed to a resolution increasing the size of a committee for the remainder of the 92d Congress, and on the next day elected a Member who had switched his party affiliation from Republican to Democrat, as a majority member of that committee. 118 CONG. REC. 12573, 92d Cong. 2d Sess., Apr. 13, 1972.

§ 9.8 A resolution increasing the number of members on one of the standing committees of the House is not a privileged resolution, unless reported by the Committee on Rules, and must be called up by unanimous consent. 115 CONG. REC. 40922, 91st Cong. 1st Sess., Dec. 22, 1969 [where objection was raised to the resolutions].

§ 9.9 By unanimous consent, the House considered and agreed to a resolution increasing the size of certain standing committees during the 93d Congress. 119 CONG. REC. 2106, 93d Cong. 1st Sess., Jan. 24, 1973 [H. Res. 158]. *Note:* The daily Record incorrectly indicated that a Member called up the resolution as privileged. The Journal correctly indicates that the resolution was not privileged (not having attained that status by a report from the Committee on Rules) and was thus called up by unanimous consent.

§ 10. Committee Staffs

§ 10.1 Authorization for committees to approve employment and compensation of employees held over from a previous Congress was provided for by resolution. 105 CONG. REC. 16, 86th Cong. 1st Sess., Jan. 7, 1959; 107 CONG. REC. 27, 87th Cong. 1st Sess., Jan. 3, 1961.

§ 10.2 *Note:* The House authorized by resolution the transfer of certain sums from the contingent fund to meet committee payrolls where committee expenses had been underestimated for the fiscal year, resulting in a shortage of appropriated funds. 112 CONG. REC. 14623, 89th Cong. 2d Sess., June 29, 1966.

§ 10.3 A resolution providing for the payment from the contingent fund of salaries of committee personnel, pending adoption of the regular committee funding resolutions, is sometimes reported and called up as privileged. 115 CONG. REC. 1075, 91st Cong. 1st Sess., Jan. 16, 1969 [H. Res. 96]; 117 CONG. REC. 480, 92d Cong. 1st Sess., Jan. 26, 1971 [H. Res. 17]; 122 CONG. REC. 472, 94th Cong. 2d Sess., Jan. 21, 1976 [H. Res. 906]. But where the Committee on House Administration has not organized, such resolutions may be called up by unanimous consent. 119 CONG. REC. 1057, 1058, 93d Cong. 1st Sess., Jan. 15, 1973 [H. Res. 130]; 123 CONG. REC. 74, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 11, authorizing investigative funds for standing and select committees until March 31, 1977]. *Note:* These resolutions are intended to apply only to the committees' investigative staffs, since the funds for the payment of professional and clerical personnel attached to the standing committees are carried in the annual legislative appropriation acts and there is thus no gap in the payment of their salaries once the rules are adopted and committees established in a new Congress. The salaries of investigative personnel, on the other hand, are dependent upon the passage of resolutions authorizing the committees to make investigations and providing funds therefor.

§ 10.4 A resolution providing for payment from the contingent fund of salaries of staff of a select committee of the previous Congress pending reconstitution of that committee is reported and called up as privileged by the Committee on House Administration. 119 CONG. REC. 3678, 93d Cong. 1st Sess., Feb. 7, 1973 [H. Res. 195, authorizing payment of sal-

aries of staff of the Select Committee on Crime].

§ 10.5 The 92d Congress by resolution adopted rules with an amendment changing clause 33(c) Rule XI, to strike out the requirement that not less than one-third of funds for standing committee investigative personnel be made available to the minority party, and inserting the requirement that the minority be given fair consideration in the allocation of such funds. 117 CONG. REC. 140, 92d Cong. 1st Sess., Jan. 22, 1971 [H. Res. 5, adopting the rules of the House for the 92d Congress].

§ 10.6 The 94th Congress adopted the rules in existence at the close of the 93d Congress with amendments, which, *inter alia*, amended Rule XI clause 5 relating to the appointment of subcommittee staff. 121 CONG. REC. 21, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5, adopting the rules for the 94th Congress].

§ 10.7 During the consideration of a primary expense resolution for a standing committee, reported by the Committee on House Administration, the Chairman of the Subcommittee on Accounts stated his understanding of minority committee staff entitlements, and the funding of those positions, under Rule XI clauses 5(d) and 6. 121 CONG. REC. 5980, 94th Cong. 1st Sess., Mar. 11, 1975 [H. Res. 237, providing funds for expenses of investigations of Committee on Merchant Marine and Fisheries]. *Note:* Clause 5(d) removed the entitlement of one-third investigative funds for minority staff contained in House Resolution 988, 93d Congress, and substituted the provision entitling the ranking minority member of each subcommittee to appoint one minority employee to be assigned and paid out of the statutory entitlement under clause 6 unless funded separately in the investigative resolution reported by House Administration.

§ 10.8 The House having directed the Committee on Standards of Official Conduct to investigate the circumstances surrounding the publication in a newspaper of a select committee report which the House had ordered not to be released, the Committee on House Administration reported a privileged resolution providing expenses from the contingent fund for that investigation with a committee amendment reducing the amount requested by the Committee on Standards of Official Conduct. 122 CONG. REC. 8445, 8446, 94th Cong. 2d Sess., Mar. 29, 1976 [H. Res. 1060].

§ 10.9 The House adopted a resolution reported from the Committee on Rules providing that for the remainder of the 94th Congress all expenses of the Committee on Standards of Official Conduct were to be paid from the contingent fund directly on vouchers approved by the chairman and ranking minority member of that committee, and that reports of expenditures of such funds would be printed periodically in the Record. 122 CONG. REC. 17322-26, 94th Cong. 2d Sess., June 10, 1976 [H. Res. 1272].

§ 10.10 The House amended Rule XI clause 6 to eliminate the requirement for semiannual publication in the *Congressional Record* of committee staff salaries. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the Rules of the House for the 95th Congress].

§ 10.11 The House by unanimous consent considered a resolution reported from the Committee on House Administration but not yet available for three days, authorizing payment from the contingent fund for expenses of standing and select committees during 1977. 123 CONG. REC. 36660, 95th Cong. 1st Sess., Nov. 2, 1977 [H. Res. 879]. A resolution similar to House Resolution 11, of the 95th Congress, was adopted at the inception of the 96th Congress. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 18, 1979 [H. Res. 49]. *Note:* A resolution continuing funds for all committees must be reported for three days before it is privileged for consideration, under Rule XI

clause 2(l)(6). The one-day layover provision of Rule XI clause 5 is limited to primary and additional expense resolutions for a single committee, and clause 5(c) provides that clause 5 does not apply to continuing resolutions for all committees.

§ 10.12 By unanimous consent, the House considered a resolution authorizing payment from the contingent fund of recurring committee expenses (including payment of investigative committee salaries, telephone bills, etc., for the final month of the prior Congress), upon certification by the chairmen of those committees if re-elected (or ranking re-elected majority members), under regulations of the Committee on House Administration of the prior Congress. 123 CONG. REC. 315, 95th Cong. 1st Sess., Jan. 6, 1977 [H. Res. 84]. *Note:* This action was taken because several members of the investigative staff had been granted pay increases after *sine die* adjournment of the 94th Congress, but they had not been certified by the retiring chairmen of those committees who had departed from the Capitol, and had not been paid since November 30.

§ 10.13 *Note:* Where the authority to employ committee staff is vested in the full committee by resolution, the power to terminate the services of the staff resides not with the chairman but with the members of the committee acting together by majority vote. See House Resolution 222, adopted by the House on February 2, 1977, providing that "the Select Committee on Assassinations may employ and fix the compensation of such clerks . . . as it considers necessary to carry out the purposes of this resolution." Since the power to appoint resides with the full committee, the power to discharge is construed to reside there as well.

B. COMMITTEE PROCEDURE; HEARINGS

§ 11. In General; Committee Rules

§ 11.1 In the 92d Congress, clause 27(a) Rule XI was amended to make mandatory the requirement that committees adopt written rules not inconsistent with the rules of the House. 117 CONG. REC. 140-44, 92d Cong. 1st Sess., Jan. 22, 1971 [H. Res. 5, adopting the rules of the House for the 92d Congress]. *Note:* A point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring prior to the time the bill was ordered reported to the House. Such point of order, if made in the House, may be overruled on the ground that the rules of a particular committee are for that committee to interpret unless they are in direct conflict with the rules of the House or unless the House rules specifically permit the raising of such objections [see, i.e., Rule XI clause 2(g)(5)].

§ 11.2 The 92d Congress added a new sentence at the end of clause 28(f)(4) Rule XI to require committees to apply the five-minute rule during interrogation of witnesses until each member has had the opportunity to question each witness. 117 CONG. REC. 140, 142-44, 92d Cong. 1st Sess., Jan. 22, 1971 [H. Res. 5, adopting the rules of the House for the 92d Congress].

§ 11.3 The rules of the House were amended to increase the fee of witnesses subpenaed by its committees from $9 to $20 per day, and their travel expenses from 7 cents per mile to 12 cents per mile. 115 CONG. REC. 23354-56, 91st Cong. 1st Sess., Aug. 12, 1969 [H. Res. 495, amending Rule XXXV].

§ 11.4 The House agreed to a privileged resolution reported from the Committee on Rules, amending Rule XXXV to remove the $20 per

diem and 12 cents per mile limits on pay for subpenaed House and committee witnesses, and setting the amount at the same rate fixed by the Committee on House Administration for Members' and employees' travel, to be paid to all witnesses whether or not subpenaed. 121 CONG. REC. 25258, 94th Cong. 1st Sess., July 28, 1975 [H. Res. 517, providing for the payment of witnesses for appearing before the House or any of its committees]. *Note:* Prior to the adoption of this resolution Rule XXXV provided $20 per day and 12 cents per mile for witnesses subpenaed to appear. As amended, the subpena requirement was deleted.

§ 11.5 When the Committee on Rules adopts rules of procedure, the chairman of the committee inserts them in the Record. 113 CONG. REC. 4774, 90th Cong. 1st Sess., Feb. 28, 1967; 115 CONG. REC. 290, 91st Cong. 1st Sess., Jan. 7, 1969.

§ 11.6 The Committee on Internal Security adopted committee rules, including rules to govern the conduct of investigative hearings, the protection of witnesses and their testimony, and the participation of counsel in committee hearings. 115 CONG. REC. 4191-93, 91st Cong. 1st Sess., Feb. 24, 1969.

§ 11.7 A member of the Committee on Armed Services inserted in the Record that committee's rules governing access of Members to classified information in committee files. 118 CONG. REC. 14434, 92d Cong. 2d Sess., Apr. 26, 1972.

§ 11.8 Pursuant to Rule XI clause 27(f)(4), each committee is required to adopt a rule applying the five-minute rule during the interrogation of witnesses to assure each committee member the right to interrogate each witness. 120 CONG. REC. 21849-55, 93d Cong. 2d Sess., July 1, 1974.

§ 11.9 It is the responsibility of the standing committees, and not the House, to construe and enforce committee rules on the calling of committee meetings. 120 CONG. REC. 24437, 93d Cong. 2d Sess., July 22, 1974 [H. Res. 1107, providing for media coverage of committee meetings].

§ 11.10 A point of order that a measure was ordered reported in violation of a committee rule requiring advance notice of the committee meeting will not lie in the House—the interpretation of committee rules being within the cognizance of the committee and not the House. 120 CONG. REC. 24437, 93d Cong. 2d Sess. July 22, 1974 [H. Res. 1107]; 124 CONG. REC. 36382, 95th Cong. 2d Sess., Oct. 12, 1978 [H. Res. 1426].

§ 11.11 Where it is apparent that a committee has met and acted together with a quorum present to report a measure to the House—as required by Rule XI clause 28(e) and Jefferson's Manual § 407—the Speaker will not rule upon whether the committee has complied with its own rule regarding the calling of meetings. 120 CONG. REC. 24437, 93d Cong. 2d Sess., July 22, 1974 [H. Res. 1107, providing for media coverage of committee meetings],

§ 11.12 The 94th Congress adopted the rules in existence at the close of the 93d Congress with amendments, which, *inter alia,* (1) amended Rule XI clause 2(e) relating to inclusion in committee records of proxy votes; and (2) amended Rule XI clause 2(f) to permit committees to adopt rules permitting limited proxies containing assertion of Member giving proxy of inability to attend meeting. 121 CONG. REC. 21, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5].

§ 11.13 The House adopted a resolution amending Rule XI clause 2(m)(2)(A) to permit committees or subcommittees to issue subpenas when a majority of the committee or subcommittee is present, and permitting the full committee to delegate to a full committee chairman authority to issue subpenas. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4,

1977 [H. Res. 5, adopting the Rules of the House for the 95th Congress]. For a discussion of the subpena power of the House, see Ch. 13 § 5, supra.

§ 11.14 The House adopted a resolution amending Rule XI clause 2(n) to require committee members to report committee travel to the chairman within 60 days, such reports to be available for public inspection and to be forwarded to the Committee on House Administration for annual publication in the *Congressional Record.* 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the Rules of the House for the 95th Congress]. Travel allowances generally, see Ch. 7 § 6, supra.

§ 12. Time of Meetings

§ 12.1 *Note:* Under the former rule, with certain exceptions specified in the House rules, no standing committee could sit without special leave during the sessions of the House. See 108 CONG. REC. 5508, 87th Cong. 2d Sess., Apr. 2, 1962.

§ 12.2 Pursuant to the present rule, Rule XI clause 2(i), only certain standing committees are permitted to sit without special leave while the House is reading a measure for amendment under the five-minute rule, and a motion to permit all committees to sit during that period is not in order. 121 CONG. REC. 33695, 94th Cong. 1st Sess., Oct. 22, 1975.

§ 12.3 Under the former rule (prior to the 94th Congress), the Speaker has declined to entertain unanimous-consent requests that committees be allowed to sit during general debate where the program contemplated for the day in question included suspensions on several bills and roll call votes. 106 CONG. REC. 1780, 86th Cong. 2d Sess., Feb. 2, 1960.

§ 12.4 By unanimous consent, the Committee on Ways and Means may be authorized to sit during sessions of the House during a Congress. 105 CONG. REC. 939, 86th Cong. 1st Sess., Jan. 20, 1959; 111 CONG. REC. 1177, 89th Cong. 1st Sess., Jan. 26, 1965; 117 CONG. REC. 1719, 92d Cong. 1st Sess., Feb. 4, 1971.

§ 12.5 By resolution the House has permitted the Committee on Appropriations to sit during sessions and recesses of a Congress. 105 CONG. REC. 16, 86th Cong. 1st Sess., Jan. 7, 1959; 111 CONG. REC. 988, 89th Cong. 1st Sess., Jan. 21, 1965. Compare Rule XI clause 2, authorizing the committee to sit during sessions and recesses and clause 32, permitting committees to sit during the five-minute rule.

§ 12.6 The chairman of a subcommittee of the Committee on Un-American Activities announced that a Federal District Court Judge had issued a temporary injunction to block a meeting of that committee, but that he intended to call the meeting as scheduled. 112 CONG. REC. 19324, 89th Cong. 2d Sess., Aug. 15, 1966. *Note:* On August 16, a special three-judge court dissolved the restraining order, so that when the subcommittee met, a direct confrontation between the committee and the order of the court was avoided.

§ 12.7 By unanimous consent, the ad hoc Select Committee on the Outer Continental Shelf was given permission to sit on a specific day while the House was proceeding under the five-minute rule. 121 CONG. REC. 23256, 94th Cong. 1st Sess., July 17, 1975.

§ 12.8 The House adopted a resolution amending Rule XI clause 2(i) to permit certain committees to sit during proceedings under the five-minute rule and to permit all other committees to sit at such times unless 10 Members object to the request in the House. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress]. Under clause 2(i), a committee may be denied special leave to sit while the House is reading a measure for amendment under the five-minute rule if 10 or more Members of the House object. 123

CONG. REC. 10360, 95th Cong. 1st Sess., Apr. 6, 1977. *Note:* When the Speaker puts a committee's request to sit to the House, he is not "putting a pending question to a vote" under Rule XV clause 6 so as to permit a point of order of no quorum in the House. No appeal lies from the count of the Chair of Members standing to object to a request that a committee have permission to sit during proceedings under the five-minute rule. 124 CONG. REC. 28984, 95th Cong. 2d Sess., Sept. 12, 1978.

§ 12.9 By unanimous consent, the Committee on Ways and Means and its subcommittees were authorized to sit during the five-minute rule proceedings of the House for the 95th Congress. 123 CONG. REC. 2460, 95th Cong. 1st Sess., Jan. 27, 1977.

§ 12.10 Permission for a committee to sit for the remainder of a session while the House is operating under the five-minute rule may be obtained only by unanimous consent (and not by special leave under Rule XI clause 2(i)). 123 CONG. REC. 13257, 95th Cong. 1st Sess., May 3, 1977. In this instance, by unanimous consent, the ad hoc Committee on Energy was granted permission to sit while the House was operating under the five-minute rule for the remainder of the first session of the 95th Congress.

§ 12.11 Pursuant to Rule XI clause 2(i), it requires 10 Members to object to a request for a committee to sit while the House is operating under the five-minute rule, where the schedule for that day has been announced. 123 CONG. REC. 25893, 25899, 95th Cong. 1st Sess., Aug. 2, 1977. Ten objections are likewise required, pursuant to Rule XI clause 2(i), to deny permission to a committee or subcommittee to sit for the balance of the week while the House is operating under the five-minute rule, where the House legislative schedule for that week has been announced. 124 CONG. REC. 5870, 95th Cong. 2d Sess., Mar. 7, 1978. Prior to the announcement of the legislative program for the House for a particular period, it requires only one objection to deny a request that a committee be permitted to sit during that period while the House is operating under the five-minute rule, and the provisions of Rule XI clause 2(i), requiring 10 Members to object to special leave for that purpose do not apply. 123 CONG. REC. 25669, 95th Cong. 1st Sess., July 29, 1977. *Note:* The provisions of the new rule on special leave to sit apply only when Members have some basis on which to object, i.e., after the announced schedule for the period in question is a matter of record. Otherwise, requests could be made weeks and months in advance to sit on a day when the business before the House will not be known.

§ 12.12 Although it takes 10 Members to object to a request made pursuant to Rule XI clause 2(i) that a committee have leave to sit while the House is operating under the five-minute rule, any one Member may still be recognized to reserve the right to object to the request. 123 CONG. REC. 31510, 95th Cong. 1st Sess., Sept. 29, 1977.

§ 12.13 Unanimous consent is not required to withdraw a request that a committee be permitted to sit while the House is operating under the five-minute rule where the house has taken no action on the request. 123 CONG. REC. 31511, 95th Cong. 1st Sess., Sept. 29, 1977.

§ 13. Open or Closed Meetings; Executive Sessions

§ 13.1 The House adopted a resolution reported from the Committee on Rules (1) amending clause 27(f) of Rule XI to require that business meetings of standing committees and subcommittees (except on internal budget and personnel matters) shall be open to the public except when the committee in open session determines by roll call vote that all or part of the remainder of that meeting be closed, and permitting committee staff and au-

thorized congressional and executive department staff to be present at closed meetings; and (2) amending clause 28(f)(2) and 28(g)(3) of Rule XI to impose similar requirements for open hearings on all committees and subcommittees unless the committee closes the remainder of that hearing because matters to be considered would endanger national security or violate a law or rule of the House. 119 CONG. REC. 6713-20, 93d Cong. 1st Sess., Mar. 7, 1973 [H. Res. 259, to amend Rule XI as to open committee meetings and hearings]. *Note:* The House adopted two amendments reported from the Committee of the Whole (1) permitting departmental representatives to be present at closed meetings when authorized by the committee; and (2) striking from clause 28(f) the requirement that the vote to close the remainder of a meeting be taken every day. In 1977, the House adopted a resolution amending Rule XI clause 2(g) to require that a majority (rather than a quorum if the committee rules established a quorum at less than a majority) be present when a committee or subcommittee votes to close a meeting or hearing and to provide that a noncommittee Member cannot be excluded from a nonparticipatory attendance at a hearing except by a vote of the House and except with respect to a hearing of the Committee on Standards of Official Conduct. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5].

§ 13.2 The Committee on Interstate and Foreign Commerce having ordered a bill reported in closed session without having voted by roll call in open session to close that meeting (in violation of clause 27(f) Rule XI), the chairman of that committee disclosed that fact during consideration of the bill in Committee of the Whole. 119 CONG. REC. 16521, 93d Cong. 1st Sess., May 22, 1973 [H.R. 7200, to amend the Railroad Retirement Act]. *Note:* A Member had threatened to make a point of order against consideration of the bill when the motion was made to go into Committee of the Whole, but he declined to do so after agreeing to make legislative history on that issue during general debate.

§ 13.3 It has been held not in order in debate in the House to refer to or quote from the minutes of an executive session of a committee, unless the committee has voted to make such proceedings public. 113 CONG. REC. 8411, 90th Cong. 1st Sess., Apr. 5, 1967 [during debate on H. Res. 312].

§ 13.4 A Member inserted in the Record a transcript from the minutes of an executive session of the Committee on House Administration, indicating the votes of members of that committee (including proxies) on amendments to a resolution providing funds for the Committee on Internal Security. 117 CONG. REC. 12483, 12488, 92d Cong. 1st Sess., Apr. 29, 1971 [H. Res. 274]. *Note:* Clause 28(b) Rule XI now requires that roll call votes taken in committees be made available in committee rooms to the public. Thus, those specific portions of executive session minutes which contained roll call votes and proxies and which were heretofore not permitted to be made public can now be examined by the press and inserted in the Record by a Member, along with a description prepared by the committee of the amendment or motion voted upon in executive session.

§ 13.5 Evidence taken in an executive session of a committee may later be made public by vote of the committee. 113 CONG. REC. 8420, 90th Cong. 1st Sess., Apr. 5, 1967 [during consideration of H. Res. 221, providing funds for the Committee on Un-American Activities]; see also 118 CONG. REC. 14348, 14434, 92d Cong. 2d Sess., Apr. 26, 1972, where a Member inserted in the Record testimony which had been taken in executive session of the Committee on Armed Services and subsequently released by that committee.

§ 13.6 Evidence or testimony taken in executive session, because of a committee determination that it may tend to degrade, defame or

incriminate, does not, in every case, remain forever under the restrictions imposed by the "executive session" label; a committee has the right to make such information public at a later time and may, by vote of the committee, do so. 113 CONG. REC. 8420, 90th Cong. 1st Sess., Apr. 5, 1967 [during consideration of H. Res. 221, providing funds for the Committee on Un-American Activities].

§ 13.7 In one instance, a committee adopted a resolution refuting a newspaper account to the effect that an unauthorized person had attended an executive session. 113 CONG. REC. 21179, 90th Cong. 1st Sess., Aug. 3, 1967, where the Committee on Post Office and Civil Service adopted a resolution refuting a newspaper account that a lobbyist had attended an executive session of one of its subcommittees.

§ 13.8 The House adopted a resolution amending Rule XI clause 34 of the 93d Congress to permit standing committees to adopt rules permitting radio, television, and photographic coverage of committee meetings as well as committee hearings. 120 CONG. REC. 24436-47, 93d Cong. 2d Sess., July 22, 1974 [H. Res. 1107, providing for media coverage of committee meetings]. *Note:* The original intent of the Committee on Rules in the 1970 Legislative Reorganization Act had been to permit radio and television coverage of committee business meetings and hearings. Based upon the plain meaning of the language of the rule itself and upon the available legislative history of this amendment to Rule XI, however, the rule had been construed to permit coverage of hearings only. While it was the forthcoming meetings of the Committee on the Judiciary during the impeachment inquiry which prompted consideration of this change in the rules by the Rules Committee, it was decided that the change should apply to all committees.

§ 13.9 The Speaker laid before the House a communication from the Chairman of the Committee on the Judiciary, submitting to the House a "statement of information" concerning the income tax returns of President Nixon examined by that committee in executive session during its impeachment inquiry, in order to comply with a Treasury Department regulation requiring submission of Internal Revenue Service files to the House prior to public release. 120 CONG. REC. 25306, 25307, 93d Cong. 2d Sess., July 25, 1974.

§ 13.10 The 94th Congress adopted the rules in existence at the close of the 93d Congress with amendments, which, *inter alia*, (1) amended Rule X clause 14(a)(1)(C) to provide that a part of a hearing might be closed and permitted a motion to close hearings on that and the subsequent day; (2) amended Rule XI clause 2(a)(1) requiring committees to adopt their rules in open session but permitting a roll call vote to close the meeting; (3) amended Rule XI clause 2(g) to permit meetings to be closed only on the day the vote is taken to close that meeting and for one subsequent day for a hearing. 121 CONG. REC. 20, 21, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5].

§ 14. Quorum Requirements

§ 14.1 A standing committee cannot validly report a measure unless the report was authorized at a formal meeting of the committee with a quorum present [Rule XI clause 28(e)]. 112 CONG. REC. 24548, 89th Cong. 2d Sess., Sept. 30, 1966, where a privileged report from the Committee on House Administration was recommitted because there was not a quorum present when the resolution was ordered reported. The rule that no measure shall be reported from committee in the absence of the presence of a majority of the committee [now Rule XI clause 2(l)(2)(A)] may be waived by a resolution reported from the Committee on Rules. 124 CONG. REC. 34094, 95th Cong. 2d Sess., Oct. 6, 1978.

§ 14.2 Unless a point of order is raised, the House assumes that reports from committees are authorized when a quorum of the committee was present. 112 CONG. REC. 24548, 89th Cong. 2d Sess., Sept. 30, 1966 [H. Res. 1028, providing funds for the Committee on House Administration].

§ 14.3 A point of order that a bill was reported from committee in the absence of a quorum of that committee is properly raised in the House when the bill is called up for consideration. However, where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee. 114 CONG. REC. 29764, 90th Cong. 2d Sess., Oct. 7, 1968. *Note:* Two of the bills which were allegedly reported in the absence of a quorum, H.R. 17954 and H.R. 7406, were scheduled for consideration on both the Consent Calendar and under suspension of the rules. The Speaker did not foreclose the making of a point of order against a bill on the Consent Calendar. However, the two bills which might have been vulnerable when called on the Consent Calendar were passed over without prejudice, by unanimous consent.

§ 14.4 A point of order under Rule XI clause 28(e) that a bill was reported from committee in the absence of a quorum is properly raised when the bill is called up for consideration—and such a point of order will not lie against a resolution providing for the consideration of the bill. 114 CONG. REC. 30738, 90th Cong. 2d Sess., Oct. 11, 1968 [H. Res. 1256].

§ 14.5 A point of order that a measure was reported from committee in the absence of a quorum will not lie until the House has agreed to consider the bill. 114 CONG. REC. 30751, 90th Cong. 2d Sess., Oct. 11, 1968 [S. 1507].

§ 14.6 A point of order that a bill was reported from committee in the absence of a quorum is in order pending a vote on the motion that the House resolve itself into the Committee of the Whole for the consideration of the bill. 114 CONG. REC. 30739, 90th Cong. 2d Sess., Oct. 11, 1968 [S. 2511].

§ 14.7 A point of order that a quorum was not present when a bill was reported from committee will not lie when unanimous consent is asked for the present consideration of the measure but is in order, after consent for consideration is given but before actual consideration begins. 114 CONG. REC. 30751, 90th Cong. 2d Sess., Oct. 11, 1968 [S. 1507].

§ 14.8 When a measure is reported to the House by a committee, the House presumes that the committee's action was taken when a quorum of the committee was present; and while any Member may challenge this presumption, he must do so at the appropriate time, i.e., when the measure is reported or called up. A point of order comes too late when the House has already agreed to the measure. 114 CONG. REC. 4448, 90th Cong. 2d Sess., Feb. 28, 1968 [H. Res. 1042, providing funds for the Committee on Un-American Activities].

§ 14.9 After the adoption of a resolution by the House, it is too late to attack the validity of the action taken by the committee reporting the resolution on the ground that a quorum was not present when it was ordered reported. 114 CONG. REC. 4448, 90th Cong. 2d Sess., Feb. 28, 1968 [H. Res. 1042, providing funds for the Committee on Un-American Activities].

§ 14.10 Where a report from a committee is challenged on the ground that a quorum of the committee was not present when the report was authorized, the Speaker interrogates the chairman of the committee concerned as to the facts in question. 112 CONG. REC. 24548, 89th Cong. 2d Sess., Sept. 30, 1966 [H. Res. 1028, providing funds for the Committee on House Administration]. In one instance, the Speaker accepted the assurances of the

Member filing the report that a quorum was actually present (subject to a subsequent verification by committee transcript). 124 CONG. REC. 36382, 95th Cong. 2d Sess., Oct. 12, 1978.

§ 14.11 Where the chairman of a committee admits a bill was reported when a quorum was not present and a point of order is sustained against the bill on that ground, the bill is recommitted. 114 CONG. REC. 30739, 90th Cong. 2d Sess., Oct. 11, 1968 [S. 2511]; 114 CONG. REC. 30751, 90th Cong. 2d Sess., Oct. 11, 1968 [S. 1507].

§ 14.12 Where a point of order was raised against consideration of a privileged resolution, reported and called up by the Committee on House Administration, on the ground that a quorum was not present when the resolution was ordered reported, the resolution was withdrawn. 114 CONG. REC. 4448, 90th Cong. 2d Sess., Feb. 28, 1968 [H. Res. 1042, providing funds for the Committee on Un-American Activities].

§ 14.13 *Note:* The House rejected a resolution reported from the Committee on Rules, providing for the consideration of a bill improperly voted on and reported by the Committee on Post Office and Civil Service. 119 CONG. REC. 25476, 25477, 25482, 93d Cong. 1st Sess., July 23, 1973 [H. Res. 495, providing for consideration of H.R. 8929]. The Post Office and Civil Service Committee had met on another bill, amended it, and then ordered the chairman to "introduce a clean bill and report it". Clause 28(e) of Rule XI requires that a majority of the committee be actually present to order any bill reported and the committee was therefore required to meet again on the clean bill.

§ 14.14 The House adopted a resolution amending Rule XI clause 2(h) to permit committees (with three exceptions) to adopt rules fixing one-third or more of its members to constitute a quorum for taking certain actions other than reporting to the House, closing meetings, and authorizing and issuing subpenas. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress].

§ 15. Access to Committee Records and Files

§ 15.1 While all Members of the House have access to committee records under Rule XI clause 28(c), testimony or evidence taken in executive sessions of a committee are under the control of the committee and, under Rule XI clause 28(o), cannot be released without the consent of the committee. See 107 CONG. REC. 11233, 87th Cong. 1st Sess., June 26, 1961.

§ 15.2 A House Member may examine committee records and files under Rule XI clause 28(c), but the committee clerk may not be directed to bring them into the well of the House if the committee has not authorized such action. 106 CONG. REC. 11820, 86th Cong. 2d Sess., June 3, 1960.

§ 15.3 A Member inserted in the Record testimony relating to the Vietnam war and the so-called Pentagon Papers which had been taken in executive session of the Committee on Armed Services and subsequently released by that committee. 118 CONG. REC. 14348-14434, 92d Cong. 2d Sess., Apr. 26, 1972 [H. Res. 918], where a member of the Committee on Armed Services inserted in the Record (at p. 14431) that committee's rules governing access of Members to classified information in committee files.

§ 15.4 A Member took the floor of the House to allege that he was being denied permission to study certain committee files and records to which he felt he should have had "access" under Rule XI clause 28(c). 120 CONG. REC. 20624, 93d Cong. 2d Sess., June 21, 1974.

§ 15.5 The Speaker laid before the House a communication from the Chairman and ranking minority member of the Committee on Standards of Official Conduct, advising that a complaint had been filed with that committee by Rep. Harrington (Mass.) against 16 members of the Committee on Armed Services who had voted to deny him access to committee files in contravention of Rule XI clause 2(e)(2). 121 CONG. REC. 28600, 94th Cong. 1st Sess., Sept. 11, 1975. See Ch. 12, § 1.12, supra, for a broader discussion of this matter.

§ 15.6 During general debate on the Department of Defense appropriation bill, the Chairman of the Appropriations Committee announced that all Members would be permitted, pursuant to Rule XI clause 2(e)(2) and additional rules adopted by that committee, to have access to classified information in that committee's files relating to U.S. intelligence activities. 121 CONG. REC. 30940, 94th Cong. 1st Sess., Sept. 30, 1975 [H.R. 9681]. *Note:* The Chairman, in making this announcement, was aware that all Members were permitted access under Rule XI clause 2(e), but his committee adopted additional rules to assure proper custody of the classified information.

§ 15.7 The House adopted a new Rule XLVIII which, *inter alia,* asserted the general right under Rule XI clause 2(e)(2) of all Members to have access to the classified executive session files of the permanent Select Committee on Intelligence, but also delegated to that committee the authority to prescribe regulations which could restrict or deny access by noncommittee Members to such files and to closed hearings. 123 CONG. REC. 22932, 95th Cong. 1st Sess., July 14, 1977 [H. Res. 658, amending the rules of the House to establish a permanent Select Committee on Intelligence].

§ 15.8 The right of a member of a committee or subcommittee to access to all committee or subcommittee hearings, records, data, charts and files under Rule XI clause 2(e)(2), only allows a Member to examine executive session materials in committee rooms and does not permit a Member to copy or to take personal notes from such materials, to keep such notes or copies in his personal office files, or to release such materials to the public without the consent of the committee or subcommittee under Rule XI clause 2(k)(7). 123 CONG. REC. 38470, 95th Cong. 1st Sess., Dec. 6, 1977. *Note:* Materials subpenaed in executive session by vote of a quorum of a subcommittee should be presumed to have been received in executive session and to remain executive session records of the subcommittee, until a quorum of the subcommittee at a valid meeting votes to release or make the materials public; the subcommittee chairman has no unilateral authority, not possessed by any other member of the subcommittee, to release such material.

§ 15.9 Rule XI clause 2(e)(2), allowing all Members access to the records and materials within the possession of House committees, does not necessarily apply to records within the possession of the executive branch which the members of a committee have been allowed to examine under limited conditions at the discretion of the executive agency in possession of such materials. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 31, 1980.

§ 16. Investigations; Hearings

§ 16.1 A standing committee of the House may by resolution be authorized to conduct investigations within its jurisdiction. 117 CONG. REC. 39513, 92d Cong. 1st Sess., Nov. 5, 1971.

§ 16.2 The House may by resolution establish a select committee of the House to investigate a designated subject. 116 CONG. REC. 18656, 18668, 91st Cong. 2d Sess., June 8, 1970 [H. Res. 976, establishing a select committee to investigate U.S. military involvement in Southeast Asia].

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§ 16.3 The privilege granted by Rule XI clause 2(k)(3), permitting a witness called before a House committee to be accompanied by counsel, does not, as a matter of right, entitle the counsel to present argument or make demands on the committee. See 112 CONG. REC. 27486-95, 89th Cong. 2d Sess., Oct. 18, 1966.

§ 16.4 While clause 2(k)(3) Rule XI permits witnesses to have counsel at investigative hearings, it is the witness, not counsel, who must be primarily responsible for protecting his rights and invoking the procedural safeguards guaranteed under the rules of the House. See 112 CONG. REC. 27495, 89th Cong. 2d Sess., Oct. 18, 1966.

§ 16.5 It is for a committee to decide what weight it will give demands of counsel at an investigative hearing. And a demand of an attorney that certain evidence be taken in executive session may be imputed to the witness; or the committee may require the witness to raise such an issue personally. 112 CONG. REC. 27495, 89th Cong. 2d Sess., Oct. 18, 1966.

§ 16.6 A committee report relating the refusal of a witness to be sworn to testify involves a question of the privileges of the House. 119 CONG. REC. 28951, 28952, 93d Cong. 1st Sess., Sept. 10, 1973, wherein the Committee on Armed Services petitioned a U.S. District Court Judge to issue a writ of habeas corpus ad testificandum to compel the attendance of a prisoner before the committee.

§ 16.7 A committee report relating to the refusal of a witness to testify is privileged. 105 CONG. REC. 17927-34, 86th Cong. 1st Sess., Sept. 3, 1959; 106 CONG. REC. 17323-31, 86th Cong. 2d Sess., Aug. 23, 1960. A committee report relating to the refusal of a witness to produce certain documents, as ordered, is likewise privileged. 106 CONG. REC. 17278-81, 17313-19, 86th Cong. 2d Sess., Aug. 23, 1960. And such a report is presented and read before a resolution is offered directing the Speaker to certify the refusal to a United States Attorney. 106 CONG. REC. 17278-313, 86th Cong. 2d Sess., Aug. 23, 1960.

§ 16.8 A committee report relating to the refusal of a witness to testify and his departure without leave is privileged. 112 CONG. REC. 27439, 27481-95, 89th Cong. 2d Sess., Oct. 18, 1966.

§ 16.9 The House rules require that certain procedural steps be taken whenever it is asserted that evidence before a committee at an investigative hearing may tend to defame, degrade, or incriminate a person. Rule XI clause 2(k)(5). Paragraph (k)(5) was amended (H. Res. 5, 96th Cong. 1st Sess., Jan. 15, 1979) to permit a committee to hear testimony asserted to be defamatory in executive session upon a determination by a majority of those present that such testimony is indeed defamatory, degrading, or incriminating. Under this rule, it is required that the committee: (1) receive the evidence in executive session; (2) afford the person an opportunity to appear voluntarily as a witness; and (3) receive and dispose of requests from such person to subpena additional witnesses. 112 CONG. REC. 27439-95, 89th Cong. 2d Sess., Oct. 18, 1966, indicating that, under former Rule XI clause 28(m), if a committee affords a witness an opportunity to appear voluntarily to testify in executive session, and that opportunity is ignored by the witness, the committee cannot thereafter proceed as if it has fully complied with the clause. If the witness thereafter appears in response to a subpena and, when called, asks for an executive session, the committee must determine whether the testimony will tend to defame, degrade, or incriminate. If the committee determines that the evidence will not so tend, it may then proceed in open session.

§ 16.10 The determination under Rule XI clause 2(k) that evidence or testimony may tend to degrade, defame, or incriminate any person lies with the committee and not with

the witness. See 112 CONG. REC. 27439-48, 27481-95, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Rept. No. 2302, H. Res. 1060, relating the refusal of Milton Mitchell Cohen to testify before the Committee on Un-American Activities].

§ 16.11 A point of order may be raised against a report of a committee on the ground that the committee had violated clause 2(k) Rule XI by not receiving certain testimony in executive session. 112 CONG. REC. 27486-95, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Rept. No. 2305]; 112 CONG. REC. 27500-13, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Rept. No. 2306].

§ 16.12 Where a person subpenaed as a witness responded to his name and then left the hearing room without making any statement other than that he refused to testify, the committee did not violate former clause 28(m) of Rule XI since the proceedings had never reached the point where the witness demanded and the committee determined that testimony would tend to degrade, defame or incriminate. 112 CONG. REC. 27439-48, 27481-85, 89th Cong. 2d Sess., Oct. 18, 1966, where the House agreed to a resolution directing the Speaker to certify a report of the Committee on Un-American Activities relating to the refusal of a witness to testify and his departure without leave.

§ 16.13 Where a person subpenaed as a witness requested, through counsel, that evidence and testimony be taken in executive session, and the committee then recessed, considered and denied the request (having made the determination that the evidence would not defame, etc., while in recess), this procedure constituted compliance with clause 28(m) Rule XI. 112 CONG. REC. 27486-95, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Rept. No. 2305, H. Res. 1061, relating the refusal of Yolanda Hall to testify before the Committee on Un-American Activities]; 112 CONG. REC. 27500-13, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Res. No. 1062, H. Rept. No. 2306, relating to the refusal of Jeremiah Stamler to testify before the Committee on Un-American Activities].

C. JURISDICTION OF COMMITTEES

§ 17. In General; Overlapping Jurisdiction

§ 17.1 In the House, all proposed bills are examined and referred to the committee having jurisdiction over the subject matter thereof. 112 CONG. REC. 1716, 89th Cong. 2d Sess., Feb. 1, 1966.

§ 17.2 Until a proposed bill has been examined, the Speaker declines to speculate as to what committee would have jurisdiction. 112 CONG. REC. 1716, 89th Cong. 2d Sess., Feb. 1, 1966, indicating that the mere receipt and reference of a Presidential message covering myriad aspects of foreign policy did not predetermine what committee would have jurisdiction of bills subsequently proposed to implement that policy.

§ 17.3 Where a legislative proposal contains two subjects which are intricately related but which fall within the jurisdiction of different committees, the legislative initiative is sometimes assumed by the committee having the primary concern for the subject matter with the understanding that the other committee involved will have an opportunity to consider that portion of the legislation within its cognizance and handle the relevant portions of the bill if and when it is brought to the floor of the House. 115 CONG. REC. 16301, 91st Cong. 1st Sess., June 18, 1969 [H.R. 12374, embodying the proposals containing the draft bill submitted with Executive Communication No. 863, was initially referred to the Committee on Ways and Means, because of the tax features contained therein, but was rereferred to the

Committee on Interstate and Foreign Commerce].

§ 17.4 A bill relating to the interstate highway program and containing a title amending the Internal Revenue Code to provide for a temporary increase in the gas tax and a transfer of certain tax receipts to the Highway Trust Fund was referred to the Committee on Public Works with the understanding that it was not to constitute a precedent with respect to surrender of jurisdiction over the fund by the Committee on Ways and Means. 105 CONG. REC. 15895, 86th Cong. 1st Sess., Aug. 14, 1959.

§ 17.5 *Note:* A Senate bill extending the boundaries of a national forest, created from public domain and thus within jurisdiction of the House Committee on Interior and Insular Affairs, was referred to the Committee on Agriculture, with the consent of the Chairman, Committee on Interior and Insular Affairs, and with the understanding that the reference would not effect a change of jurisdiction. 109 CONG. REC. 12525, 88th Cong. 1st Sess., July 15, 1963.

§ 17.6 The House agreed to a resolution providing for the consideration of a bill reported from the Committee on Merchant Marine and Fisheries, making it in order, after passage, to take from the Speaker's table a similar Senate bill which, under the precedents, would have fallen within the jurisdiction of the Committee on Interior and Insular Affairs had it been referred to committee, and to insert the House language as an amendment. 115 CONG. REC. 26569, 91st Cong. 1st Sess., Sept. 23, 1969 [H. Res. 544]. *Note:* The Chairman of the Interior and Insular Affairs Committee agreed that he would not oppose the granting of a rule for the consideration of the bill if certain amendments, which he proposed to offer on the floor of the House, would be accepted by the committee handling the bill, and if, when conferees were named on the bill, members of his committee would be included.

§ 17.7 A joint resolution (H.J. Res. 1040) relating to the date for transmittal of the President's Economic Report (a matter technically within the jurisdiction of the Committee on Government Operations) was called up by unanimous consent by the Chairman of the Joint Economic Committee. 115 CONG. REC. 40901, 91st Cong. 1st Sess., Dec. 22, 1969.

§ 17.8 A resolution reported from the Committee on Rules amending Rule XI to enlarge the jurisdiction of a committee is called up as privileged. 116 CONG. REC. 23136-40, 91st Cong. 2d Sess., July 8, 1970 [H. Res. 1031, amending the rules of the House as to the jurisdiction of the Committee on Standards of Official Conduct over lobbying and campaign contributions].

§ 17.9 The House rejected a resolution, reported from the Committee on Rules, authorizing the Committee on Education and Labor to conduct specific investigations in designated foreign countries. 117 CONG. REC. 13727, 13732, 92d Cong. 1st Sess., May 6, 1971 [H. Res. 412].

§ 17.10 The Joint Committee on Washington Metropolitan Problems was authorized, by concurrent resolution, to hold hearings and report to the Committees on the District of Columbia of the Senate and House on two bills "to aid in the development of an integrated system of transportation for the National Capitol Region." 106 CONG. REC. 8546, 86th Cong. 2d Sess., Apr. 21, 1960 [S. Con. Res. 101, authorizing public hearings by the Joint Committee on Washington Metropolitan Problems].

§ 17.11 A memoranda of understanding was entered into by the Chairmen and members of the Committees on Armed Services, Foreign Affairs, Interior and Insular Affairs, Interstate and Foreign Commerce, Science and Technology, and Public Works and Transportation, relative to the jurisdictional effect of changes in the rules of the House on committee juris-

diction over energy. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 25, 1980 [H. Res. 549].

§ 18. Committee on Agriculture

§ 18.1 *Note:* The Committee on Agriculture has jurisdiction over bills relating to such matters as the regulation of the Department of Agriculture, the animal industry, rural development, commodity exchanges, food stamp programs, expansion of rural electrification and telephone services, agricultural pesticide control, agricultural trade development, poultry inspection and marketing, and the refinancing of farm-mortgage indebtedness.

§ 18.2 In the 89th Congress, by a rereference, the House confirmed the jurisdiction of the Committee on Agriculture (as distinguished from the Committee on Interstate and Foreign Commerce) of bills authorizing the Secretary of Agriculture to regulate the transportation, sale and handling of dogs and cats intended for use in research and to provide for the licensing of research facilities using such domestic animals. 111 CONG. REC. 17981, 89th Cong. 1st Sess., July 22, 1965; 111 CONG. REC. 18691, 89th Cong. 1st Sess., July 29, 1965 [H.R. 9750, 9869, 9875].

§ 18.3 In the 94th Congress, the Committee on Agriculture had exclusive jurisdiction, not jointly with the Committee on Post Office and Civil Service, over a bill to upgrade the position of Under Secretary of Agriculture to Deputy Secretary, to provide two additional Assistant Secretaries, to increase the compensation of certain Department of Agriculture officials who were not civil service employees, and to provide an additional board member for the Commodity Credit Corporation. 122 CONG. REC. 4958, 94th Cong. 2d Sess., Mar. 2, 1976 [H.R. 10133].

§ 18.4 The Committee on Agriculture (which has jurisdiction over domestic availability of agricultural commodities) as well as the Committee on International Relations (which has jurisdiction over international commodity agreements) has "oversight" jurisdiction over the President's annual report on agriculture export activities under the food for peace program, where that report contains information on domestic availability and production. 122 CONG. REC. 1956, 94th Cong. 2d Sess., Feb. 3, 1976.

§ 18.5 The Committee on Agriculture, and not the Committee on Interior and Insular Affairs, has jurisdiction over a bill directing the Soil Conservation Service of the Department of Agriculture to develop a land and water conservation program on private and nonfederal lands. 122 CONG. REC. 16768, 94th Cong. 2d Sess., June 7, 1976. [S. 2081, the Land and Water Resource Conservation Act of 1976].

§ 18.6 The Committee on Agriculture has concurrent jurisdiction with the Committee on International Relations over joint resolutions directing the President, the Secretary of Agriculture, and other officials to develop and implement a program for the expansion of sales of American agricultural commodities abroad in order to protect the welfare of American farmers. 124 CONG. REC. 5022, 95th Cong. 2d Sess., Feb. 28, 1978 [H.J. Res. 615, H.J. Res. 690]. *Note:* Although overseas sales and distribution of agricultural commodities were provided for, the broad program here envisioned would require increased purchases of domestic stocks for such sale and was essentially a domestic program.

§ 18.7 The Committee on Agriculture has concurrent jurisdiction with the Committee on Science and Technology over a bill providing for research and development resulting in the commercialization of latex rubber. 124 CONG. REC. 12914, 95th Cong. 2d Sess., May 8, 1978 [H.R. 5720].

§ 19. Committee on Appropriations

§ 19.1 The Committee on Appropriations, under clause 2(a) of Rule XI, does not have jurisdiction over a proposition amending section 305 of the Higher Education Facilities Act of 1963 to make the revolving loan fund therein, which consists of funds already appropriated, available for loan insurance. 117 CONG. REC. 38075-77, 92d Cong. 1st Sess., Oct. 28, 1971 [H.R. 7248].

§ 19.2 Communications from the Chairman of the Committee on Agriculture, advising of the approval of plans under the Watershed Protection and Flood Prevention Act, were laid before the House and referred to the Committee on Appropriations. 105 CONG. REC. 3042, 86th Cong. 1st Sess., Feb. 26, 1959; 105 CONG. REC. 8808, 86th Cong. 1st Sess., May 21, 1959.

§ 19.3 Communications from the Chairman of the Committee on Public Works, advising of the approval of plans under the Watershed Protection and Flood Prevention Act, were laid before the House by the Speaker and referred to the Committee on Appropriations. 105 CONG. REC. 3784, 86th Cong. 1st Sess., Mar. 10, 1959; 105 CONG. REC. 10164, 86th Cong. 1st Sess., June 8, 1959.

§ 19.4 Communications from the Chairman of the Committee on Public Works, advising of the approval of prospectuses for various projects under the Public Buildings Act of 1959, were laid before the House and referred to the Committee on Appropriations. 106 CONG. REC. 4223, 86th Cong. 2d Sess., Mar. 2, 1960; 107 CONG. REC. 6284, 87th Cong. 1st Sess., Apr. 19, 1961.

§ 19.5 The Committee on Appropriations, and not the Committee on Government Operations, has jurisdiction over a bill directing the President to submit to Congress recommendations for reductions in budget outlays to a designated level. 120 CONG. REC. 35160, 35161, 93d Cong. 2d Sess., Oct. 10, 1974 [H.R. 17193, providing for joint action by the executive and legislative branch to limit budget outlays in fiscal 1975 to $300 billion].

§ 20. Committee on Armed Services

§ 20.1 In the 90th Congress, the Committee on Armed Services, and not the Committee on Banking and Currency, had jurisdiction of bills authorizing appropriations for use by the Secretary of Defense for acquisition of housing on or near military bases which have been ordered closed, even though the authorization for such program was contained in an omnibus housing act [reported from Banking and Currency]. 113 CONG. REC. 9981, 90th Cong. 1st Sess., Apr. 18, 1967. *Note:* The Demonstration Cities and Metropolitan Development Act of 1966 [42 USC § 3347] contains a section authorizing the Secretary of Defense to acquire housing on or near a military base which is ordered closed; the section specifies that no funds may be appropriated for such acquisitions unless authorized in a military construction authorization act. Requests for such appropriations are thus referred to the Committee on Armed Services.

§ 20.2 In the 87th Congress, the Committee on Armed Services, and not the Committee on Banking and Currency, had jurisdiction of bills conferring jurisdiction in certain cases on the secretaries of the military departments to authorize payment from appropriated funds of the military departments of amounts determined to be owing to contractors under armed services housing contracts entered into under authority of the National Housing Act (12 USC §§ 1748 et seq.). 108 CONG. REC. 2684, 87th Cong. 2d Sess., Feb. 21, 1962.

§ 20.3 In the 91st Congress, the Committee on Armed Services, and not the Committee on the Judiciary, had jurisdiction over bills to add

a new chapter to title 10, United States Code, to permit civil actions in federal courts against the United States for damage to the reputation of members of the Armed Forces charged with committing certain crimes against civilians in combat zones if such members are acquitted of such charges. 116 CONG. REC. 24451, 91st Cong. 2d Sess., July 15, 1970 [H.R. 18365].

§ 20.4 The Committee on Armed Services, and not the Committee on the Judiciary, has jurisdiction of private bills to credit service performed as a Judge Advocate General in the Air Force as "regular service" for purposes of promotion. 107 CONG. REC. 8556, 87th Cong. 1st Sess., May 22, 1961.

§ 20.5 The Committee on Armed Services, and not the Committee on the Judiciary has jurisdiction of certain private bills establishing the basis for computation of retired pay of a member of the military services. 107 CONG. REC. 10096, 87th Cong. 1st Sess., June 12, 1961 [H.R. 6738].

§ 20.6 In the 89th Congress, the Committee on Armed Services, and not the Committee on Public Works, had jurisdiction of measures authorizing the Secretary of the Army to construct facilities at Walter Reed Medical Center for the Armed Forces Institute of Pathology. 112 CONG. REC. 24859, 89th Cong. 2d Sess., Oct. 3, 1966 [H.R. 18019].

§ 20.7 In the 87th Congress, the Committee on Armed Services, and not the Committee on Public Works, had jurisdiction of a private bill authorizing the Secretary of the Navy to convey to a private corporation certain lands which were part of a naval ordnance facility. 107 CONG. REC. 5526, 87th Cong. 1st Sess., Apr. 10, 1961.

§ 20.8 In the 87th Congress, the Committee on Armed Services, and not the Committee on Interior and Insular Affairs, had jurisdiction of bills to authorize an investigation of cultural and historical artifacts of the Ryukyuan people. 107 CONG. REC. 14786, 87th Cong. 1st Sess., Aug. 7, 1961 [H.R. 8461].

§ 20.9 While the Committee on Merchant Marine and Fisheries has jurisdiction over compensation and retirement benefits for the active Coast Guard, the Committee on Armed Services legislates on matters relating to reserve components of the Coast Guard. 120 CONG. REC. 36622, 93d Cong. 2d Sess., Nov. 20, 1974.

§ 20.10 The Committee on Armed Services, and not the Committee on Merchant Marine and Fisheries, has jurisdiction of bills to provide retirement benefits to members of the Coast Guard Reserve. 120 CONG. REC. 36622, 93d Cong. 2d Sess., Nov. 20, 1974.

§ 20.11 The Committee on Armed Services, and not the Committee on Veterans' Affairs, has jurisdiction over bills authorizing recomputation of certain military retired pay. 121 CONG. REC. 5538, 94th Cong. 1st Sess., Mar. 6, 1975 [H.R. 3337].

§ 20.12 The Committee on Armed Services, and not the Committee on Veterans' Affairs, has jurisdiction over a bill to restore wartime recognition of Filipino veterans of World War II whose names were stricken from official U.S. Army records. 121 CONG. REC. 5538, 94th Cong. 1st Sess., Mar. 6, 1975 [H.R. 3561].

§ 20.13 A bill relating to national petroleum reserves on public lands (including naval petroleum reserves), reported from the Committee on Interior and Insular Affairs with an amendment, was sequentially referred to the Committee on Armed Services, which has jurisdiction over naval petroleum reserves, for one month for consideration of the bill and amendment. 121 CONG. REC. 7074, 7106, 94th Cong. 1st Sess., Mar. 18, 1975 [H.R. 49, establishing national petroleum reserves on certain public lands]. The Committee on Armed Services, and not the Committee on Interior and Insular Affairs, has primary jurisdiction over a

provision authorizing appropriations to the Department of Energy for resource applications for naval petroleum and oil shale reserves. 124 CONG. REC. 11946, 95th Cong. 2d Sess., May 1, 1978 [H.R. 11392]. And the Committee on Armed Services has concurrent jurisdiction with the Committees on Science and Technology and Interior and Insular Affairs, over bills to test the commercial, environmental, and social viability of various oil shale technologies within the naval oil shale reserves or on other public lands. 124 CONG. REC. 31623, 95th Cong. 2d Sess., Sept. 26, 1978 [S. 419, H.R. 12818, and H.R. 13424].

§ 20.14 The Committee on Armed Services, and not the Committee on Veterans' Affairs, has jurisdiction over bills to provide military commissary, post exchange, and medical care privileges to veterans with sufficient service-connected disabilities. 122 CONG. REC. 1972, 94th Cong. 2d Sess., Feb. 3, 1976 [H.R. 11235].

§ 20.15 The House adopted a resolution amending Rule X by abolishing the legislative jurisdiction in the House of the Joint Committee on Atomic Energy [clause 5(e)] and transferring its jurisdiction over military applications of nuclear energy to the Committee on Armed Services [clause 1(c)]. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress].

§ 20.16 The Committee on Armed Services, and not the Committee on Veterans' Affairs, has jurisdiction over a bill amending title 38 of the United States Code to entitle certain veterans to travel on a space-available basis on domestic and overseas flights by military aircraft. 123 CONG. REC. 28153, 95th Cong. 1st Sess., Sept. 8, 1977 [H.R. 4066].

§ 20.17 The Committee on Armed Services, and not the Committee on Post Office and Civil Service, has jurisdiction over a joint resolution designating John Adams as the "Father of the United States Marine Corps." 124 CONG. REC. 18203, 95th Cong. 2d Sess., June 19, 1978 [H.J. Res. 1002].

§ 21. Committee on Banking, Finance and Urban Affairs

§ 21.1 Under the rules in effect in the 91st Congress, the Committee on Banking and Currency, and not the Committee on Government Operations, had jurisdiction of bills designed to promote "balanced urban development and growth" by providing coordination in different categories of urban development grants and amending various laws within the jurisdiction of the Committees on Banking and Currency, Public Works, Interstate and Foreign Commerce, and others. 116 CONG. REC. 7887, 91st Cong. 2d Sess., Mar. 18, 1970 [H.R. 13217]. *Note:* The bill was originally referred to the Committee on Government Operations since it was similar to other measures providing for consolidation of grant-in-aid programs. Since the bill had as its specific purpose the consolidation of grants for urban development, the Committee on Government Operations had no objection to its rereferral to the Committee on Banking and Currency.

§ 21.2 The House adopted a privileged resolution, reported from the Committee on Rules, amending clause 4 Rule XI to vest jurisdiction over the impact on the economy of tax exempt foundations and charitable trusts in the Committee on Banking and Currency. Oversight of this matter had formerly been exercised by the Select Committee on Small Business. 117 CONG. REC. 12080, 92d Cong. 1st Sess., Apr. 27, 1971 [H. Res. 320].

§ 21.3 Under the rules in effect in the 86th Congress, the Committee on Banking and Currency, and not the Committee on Foreign Affairs, had jurisdiction over proposed legislation to provide for the participation of the United States in the International Development Association, an international financial or-

ganization to operate under the provisions of the Bretton Woods Agreement Act and to be financed partly from special notes issued by the Secretary of the Treasury under the Second Liberty Bond Act. 106 CONG. REC. 5046, 86th Cong. 2d Sess., Mar. 9, 1960 [H. Doc. No. 345].

§ 21.4 Under the rules in effect in the 87th Congress, the Committee on Banking and Currency, and not the Committee on Public Works, had jurisdiction of proposals to authorize the Administrator of General Services to acquire land in the District of Columbia for transfer to the International Monetary Fund as a site for a new office building for the fund. 108 CONG. REC. 7428, 87th Cong. 2d Sess., May 1, 1962 [Executive Communication No. 1994 authorized the Administrator of General Services to acquire the land, subject to reimbursement by the fund].

§ 21.5 *Note:* Effective Jan. 3, 1975, the Committee on Banking and Currency was redesignated as the Committee on Banking, Currency and Housing pursuant to a resolution which reformed the structure, jurisdiction, and procedures of House committees. H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974.

§ 21.6 The Committee on Banking, Currency and Housing and not the Committee on Public Works and Transportation has jurisdiction over flood insurance. 121 CONG. REC. 38701, 94th Cong. 1st Sess., Dec. 4, 1975.

§ 21.7 The Committee on Banking, Finance and Urban Affairs, and not the Committee on International Relations, has jurisdiction under Rule X clause 1(d) (6), (8), over bills to amend the African Development Fund Act to increase the U.S. subscription to such fund. 123 CONG. REC. 9343, 95th Cong. 1st Sess., Mar. 29, 1977 [H.R. 5497].

§ 21.8 The Committee on the Judiciary has concurrent jurisdiction with the Committee on Banking, Finance and Urban Affairs over a bill to restrict access by the federal government to consumer reports and financial, credit and insurance records maintained by third parties. 123 CONG. REC. 23193, 95th Cong. 1st Sess., July 15, 1977 [H.R. 8280].

§ 21.9 The Committee on Banking, Finance and Urban Affairs, and not the Committee on International Relations, has jurisdiction over a bill amending the Export-Import Bank Act to prohibit financing under that act for the export of nuclear materials and technology. 124 CONG. REC. 3434, 95th Cong. 2d Sess., Feb. 15, 1978 [H.R. 10544].

§ 22. Committee on the Budget

§ 22.1 The House agreed to a conference report on a bill (the Congressional Budget Act of 1974) which, *inter alia*, amended Rules X and XI to establish a standing Committee on the Budget (designating its composition from among five members each of the Committees on Appropriations and Ways and Means, 11 members of other standing committees, and one member each from the majority and minority leadership) to serve for two of five successive Congresses without regard to seniority; conferring subpena authority and permission to sit during all sessions of the House (including five-minute debate); conferring legislative jurisdiction over all concurrent resolutions setting overall budget limits as required by the act and conferring investigative jurisdiction. 120 CONG. REC. 19672, 19698, 93d Cong. 2d Sess., June 18, 1974 [conference report on H.R. 7130, Congressional Budget Act of 1974]. The 96th Congress adopted provisions amending Rule X clause 1(e) to increase the limitation on Members' service on the committee from two to three Congresses in any period of five successive Congresses, to exempt representatives from the party leaderships from the limitation, and to permit an incumbent chairman having served on the committee for three Congresses and as chairman for not more than one Congress to be eligible

for reelection as chairman for one additional Congress. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5].

§ 22.2 The 94th Congress adopted the rules in existence at the close of the 93d Congress with amendments, which, *inter alia*, amended Rule X clause 1(e)(1) increasing the size of the Budget Committee by two. 121 CONG. REC. 20, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5]. Procedure on the budget generally, see Ch. 13 §§ 6-16, supra.

§ 23. Committee on the District of Columbia

§ 23.1 Under the rules in effect in the 86th Congress, the Committee on the District of Columbia, and not the Committee on Interstate and Foreign Commerce, had jurisdiction of regulations to establish an objective for coordinating the development of the District of Columbia with that of other areas in the Washington metropolitan region. 106 CONG. REC. 560, 86th Cong. 2d Sess., Jan. 14, 1960 [S.J. Res. 42, which would coordinate actions in fields of health, traffic and other areas].

§ 23.2 In the 91st Congress, the Committee on the District of Columbia, and not the Committee on Public Works, had jurisdiction of bills which (1) authorized the Commissioners of the District of Columbia to construct, maintain and operate parking facilities for government employees and visitors, in the District and in surrounding fringe areas on Federal land, and (2) where the proceeds from parking fees were to be applied to the District of Columbia public schools. 115 CONG. REC. 2101, 91st Cong. 1st Sess., Jan. 29, 1969 [H.R. 2194]. *Note:* H.R. 2194 was originally referred to the Committee on Public Works because of the provision which permitted the commissioners to construct "fringe area parking lots," outside of the District of Columbia. However, the Committee on Public Works expressed its willingness to have the bill rereferred.

§ 23.3 In the 87th Congress, the Committee on the District of Columbia, and not the Committee on Interstate and Foreign Commerce, had jurisdiction of bills authorizing the Surgeon General to make grants to George Washington University to aid in planning and constructing new facilities at the George Washington University Hospital. 107 CONG. REC. 18132, 87th Cong. 1st Sess., Sept. 5, 1961 [H.R. 8916].

§ 23.4 The Committee on the District of Columbia, and not the Committee on the Judiciary, had jurisdiction of bills authorizing a corporation chartered under the laws of the District of Columbia to consolidate with a corporation chartered under the laws of another state [the resultant corporation to be subject to the laws of the District]. 109 CONG. REC. 7812, 88th Cong. 1st Sess., May 6, 1963 [H.R. 5342].

§ 23.5 The Committee on the District of Columbia, and not the Committee on Armed Services, has jurisdiction of bills amending the District of Columbia Code to provide that the jurisdiction of courts-martial of the District of Columbia militia shall extend to militia members not in active federal service. 118 CONG. REC. 15778, 92d Cong. 2d Sess., May 4, 1972 [H.R. 9807].

§ 23.6 The Committee on the District of Columbia, and not the Committee on House Administration, has exercised jurisdiction over resolutions relating to the National Capitol Planning Commission's providing a suitable site for erection of a statue by the state of Maine. 108 CONG. REC. 19454, 20226, 87th Cong. 2d Sess., Sept. 14, 1962 [H. Res. 799].

§ 23.7 By unanimous consent, the House discharged from the Committee on the Judiciary and referred to the Committee on the District of Columbia a bill permitting suits under the civil rights laws [42 USC § 1983; 28 USC § 1343(3)] against persons acting under color of District of Columbia laws or customs,

where the Member making the request specified that the rereferral was not to be considered as establishing a precedent for jurisdiction over the legislation. 124 CONG. REC. 22852, 95th Cong. 2d Sess., July 26, 1978 [H.R. 10189].

§ 24. Committee on Education and Labor

§ 24.1 The Committee on Education and Labor, and not the Committee on the Judiciary, has jurisdiction over bills to assist state and local government programs for the control of juvenile delinquency. 105 CONG. REC. 1027, 86th Cong. 1st Sess., Jan. 22, 1959.

§ 24.2 The Committee on Education and Labor, and not the Committee on the Judiciary, has jurisdiction of bills to strengthen interstate reporting and interstate services for parents of runaway children, to conduct research on the size of the runaway youth population, and for temporary housing and counseling services for transient youth. 119 CONG. REC. 23633, 93d Cong. 1st Sess., July 12, 1973 [S. 645, Runaway Youth Act]; 119 CONG. REC. 28970, 93d Cong. 1st Sess., Sept. 10, 1973 [H.R. 1807, H.R. 2316, and H.R. 3274, which were similar to S. 645, but had been originally referred to the Committee on the Judiciary due to the inclusion of title I authorizing LEAA grants to law enforcement agencies to fund reporting services].

§ 24.3 The Committee on Education and Labor, and not the Committee on Post Office and Civil Service, has jurisdiction of proposals to amend the Federal Employees' Compensation Act Amendments of 1960. 107 CONG. REC. 16271, 87th Cong. 1st Sess., Aug. 18, 1961.

§ 24.4 Under the rules in effect in the 92d Congress, the Committee on Education and Labor, and not the Committee on Ways and Means, had jurisdiction of proposals to assist states and localities to coordinate human services programs administered by the Department of Health, Education and Welfare. 118 CONG. REC. 21733, 92d Cong. 2d Sess., June 21, 1972. *Note:* Programs for human services administered by HEW came within the jurisdictions of several committees of the House, including Ways and Means, Education and Labor, and Interstate and Foreign Commerce. The proposals had originally been referred to Ways and Means because several of the services involved social security benefits.

§ 24.5 A proposition authorizing the establishment of safety standards for federal recreational campsites on federal property in national parks, reclamation projects, national forests and Corps of Engineer sites was held to be outside the jurisdiction of the Committee on Education and Labor. 117 CONG. REC. 39290-93, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education]. *Note:* An Education and Labor Committee amendment in the nature of a substitute was being considered under a special rule permitting points of order to be raised against "any title, part or section of the substitute the subject matter of which was properly within the jurisdiction of any other standing committee." A section authorizing the Secretary of HEW to establish safety standards for federal recreational camps was held not to come within the jurisdiction of that committee and was stricken from the substitute.

§ 24.6 Bills amending the Civil Rights Act of 1964, originally referred to and reported from the Committee on the Judiciary, to provide for a Fair Employment Practices Commission were referred to the Committee on Education and Labor. 111 CONG. REC. 13296, 89th Cong. 1st Sess., June 10, 1965.

§ 24.7 The Committee on Education and Labor, under clauses 7(a), (m) of Rule XI relating to "education generally" and to "wel-

fare of miners," has jurisdiction of a proposal to amend the Higher Education Act of 1965 to establish mineral resources conservation institutes, although the Committee on Interior and Insular Affairs has jurisdiction over "mining schools" and "mining interests generally" under clauses 11(k), (l) of Rule XI. 117 CONG. REC. 32963-65, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248].

§ 24.8 A point of order that title III of an Education and Labor Committee amendment in the nature of a substitute (being read by titles as an original bill for amendment) contained provisions within the jurisdiction of another House committee under Rule XI was overruled where: (1) a comparable provision was contained in the original bill referred to the Committee on Education and Labor, thereby assuring the germaneness of the committee substitute to the original bill; (2) a point of order against germaneness of the substitute had not been timely made (at the time reading of the substitute had begun); and (3) points of order based solely upon questions of committee jurisdiction under Rule XI during consideration of the committee amendment in Committee of the Whole were not made in order by any special procedure. 120 CONG. REC. 16755, 16756, 93d Cong. 2d Sess., May 29, 1974 [H.R. 14449, the Community Services Act of 1974]. *Note:* The proper procedure in the House for questioning committee jurisdiction of a bill is a motion to rerefer pursuant to Rule XXII clause 4 prior to the filing of the committee's report or to request the Speaker to sequentially refer the bill under Rule X clause 5 when the first committee reports.

§ 24.9 The Committee on Education and Labor, and not the Committee on Interior and Insular Affairs, has jurisdiction over bills dealing with the education of Indians. 121 CONG. REC. 10247, 94th Cong. 1st Sess., Apr. 15, 1975 [H.R. 87]. *Note:* Prior to the adoption of House Resolution 988, 93d Congress, Indian education was a subject specifically within the jurisdiction of the Interior and Insular Affairs Committee, but that change of rules eliminated that specific reference, thereby implicitly transferring jurisdiction to the Education and Labor Committee, though not so stated.

§ 24.10 The Committee on Education and Labor [under Rule X clause 1(g)(10)—U.S. Employees' Compensation Commission], and not the Committee on Post Office and Civil Service [under clause 1(o)(5)—status of employees of the United States, including their compensation] has jurisdiction over bills amending title 5, United States Code, dealing with compensation to federal employees and their beneficiaries for work injuries. 121 CONG. REC. 10339, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 2435, H.R. 5255]. For a similar precedent, see 124 CONG. REC. 9080, 95th Cong. 2d Sess., Apr. 6, 1978 [H.R. 11757, to amend 5 USC § 8118, to provide for physical examinations with respect to claims for compensation for work injuries, and to provide that continuation of pay under such section shall not begin until the fourth day of disability].

§ 24.11 The Committee on Education and Labor had concurrent jurisdiction, with the Committee on the Judiciary, over certain bills amending several titles of the Civil Rights Act relating in part to discrimination in employment. 123 CONG. REC. 6832, 95th Cong. 1st Sess., Mar. 9, 1977 [H.R. 451, 2988]. Similarly, the Committee on Education and Labor has concurrent jurisdiction with the Committee on the Judiciary over a bill prohibiting discrimination on the basis of affectional or sexual preference under the civil rights laws, including title VII of the Civil Rights Act, and under the General Education Act. 124 CONG. REC. 12914, 95th Cong. 2d Sess., May 8, 1978 [H.R. 12149].

§ 24.12 The Committee on Education and Labor, and not the Committee on Interior and Insular Affairs, has jurisdiction over bills to

authorize the Secretary of Health, Education, and Welfare to convey land to a university as a national learning and cultural center for Indian and Hispanic students. 123 CONG. REC. 13949, 95th Cong. 1st Sess., May 9, 1977 [H.R. 4447 and H.R. 6820]. See also § 24.9, supra.

§ 24.13 The Committee on Education and Labor has concurrent jurisdiction, with the Committee on Ways and Means, over a bill amending the Employment Retirement Income Security Act of 1974 to permit assignments or alienations of certain rights under pension plans. 124 CONG. REC. 24217, 95th Cong. 2d Sess., Aug. 3, 1978 [H.R. 13446].

§ 25. Committee on Government Operations

§ 25.1 The Committee on Government Operations, and not the Committee on Agriculture, has jurisdiction of bills establishing the Rural Electrification Administration as an independent agency and restoring to the agency those functions transferred to the Secretary of Agriculture under Reorganization Plan No. 2 of 1953. 105 CONG. REC. 4692, 86th Cong. 1st Sess., Mar. 19, 1959 [H.R. 4147].

§ 25.2 The Committee on Government Operations, and not the Committee on Ways and Means, has jurisdiction of measures establishing a Commission on Population Growth to study population trends and their influence on government and the economy. 115 CONG. REC. 26568, 91st Cong. 1st Sess., Sept. 23, 1969.

§ 25.3 The Committee on Government Operations, and not the Committee on Foreign Affairs, considered and reported a bill to establish a Cabinet Committee on Opportunities for Spanish-Speaking People. 115 CONG. REC. 35509, 91st Cong. 1st Sess., Nov. 24, 1969, where bills and communications "to establish an Interagency Committee on Mexican-American Affairs" were rereferred from the Committee on Foreign Affairs to the Committee on Government Operations.

§ 25.4 The Committee on Government Operations, and not the Committee on Post Office and Civil Service, has jurisdiction of proposals to amend the Administrative Expenses Act to provide for the payment of certain travel costs for applicants invited by a federal agency to visit it for purposes of employment. 113 CONG. REC. 3466, 90th Cong. 1st Sess., Feb. 15, 1967 [Exec. Comm. No. 353, 90th Cong.]. See also H.R. 9020, 89th Cong., for a similar proposal which was referred to and reported by the Committee on Government Operations [H. Rept. No. 710].

§ 25.5 To a bill amending the rules of the House, being considered under a special order prohibiting amendments to the bill "which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI," an amendment proposing a new Rule XLV to require that a majority of at least one subcommittee of the Committee on Government Operations consist of minority members of the House was ruled out of order as an attempt to change the "jurisdiction and makeup of the Committee on Government Operations." 116 CONG. REC. 26421, 91st Cong. 2d Sess., July 29, 1970 [H.R. 17654, Legislative Reorganization Act of 1970].

§ 25.6 The Committee on Government Operations, and not the Committee on Public Works and Transportation, has jurisdiction over title II of the Public Works Employment Act of 1976, providing a countercyclical program of revenue-sharing grants to state and local governments. 123 CONG. REC. 3057, 95th Cong. 1st Sess., Feb. 1, 1977. *Note:* Beginning with the 94th Congress when jurisdiction over general revenue sharing was specifically given to the Committee on Government Operations, several bills providing for revenue returns to states for losses incurred by federal tax immunity were referred to that committee. The

Committee on Interior and Insular Affairs, which had such jurisdiction in prior Congresses, retained jurisdiction over bills which provided payments in lieu of property taxes where the tax immunity arose on federally owned natural resource lands.

§ 25.7 The Committee on Government Operations, and not the Committee on Post Office and Civil Service, has jurisdiction over executive communications from the Office of Management and Budget reporting on actions taken on recommendations of a federal advisory committee, pursuant to the Federal Advisory Committee Act. 123 CONG. REC. 12033, 95th Cong. 1st Sess., Apr. 25, 1977. *Note:* Section 6(b) of the Federal Advisory Committee Act [Pub. L. No. 92-463, 5 USC App. 1, § 6(b)] requires the President to report to the Congress on his actions on the recommendations of every advisory committee, and such reports have generally been referred solely to the Committee on Government Operations regardless of the subject of the recommendations.

§ 25.8 The Committee on Government Operations and not the Committee on House Administration has jurisdiction over a bill to repeal chapter 27 of title 44, United States Code, relating to the Federal Records Council. 123 CONG. REC. 23203, 95th Cong. 1st Sess., July 15, 1977 [H.R. 8112]. *Note:* The Federal Records Council was established by a law reported by the Committee on Government Operations amending the Federal Property and Administrative Services Act (64 Stat. 583). Although the Committee on House Administration has jurisdiction over the disposition of useless records in the executive branch [Rule X clause 1(i)(10)], the Committee on Government Operations has jurisdiction over records management generally in the executive branch.

§ 26. Committee on House Administration

§ 26.1 The Committee on House Administration, and not the Committee on Rules, had jurisdiction of propositions authorizing committees of the House to employ additional professional and clerical personnel. 112 CONG. REC. 2373, 89th Cong. 2d Sess., Feb. 7, 1966 [H. Res. 640, authorizing the Committee on Armed Services to employ eight additional employees. The jurisdiction of the Committee on House Administration over this subject matter is explicit in Rule XI clause 10(c)].

§ 26.2 A Presidential communication proposing a comprehensive amendment of the federal election laws, including amendments to the Federal Corrupt Practices Act (Title 18, USC) and the Internal Revenue Code (Title 26, USC), was referred to the Committee on House Administration. 112 CONG. REC. 11686, 89th Cong. 2d Sess., May 28, 1966. *Note:* The draft bill accompanying the President's letter was discussed by the Chairman of the Committee on Ways and Means and the Chairman of the Committee on House Administration. Title VII of the bill, pertaining to income tax deductions for political contributions, amended the Internal Revenue Code and was clearly within the jurisdiction of the Committee on Ways and Means. It was agreed that while the communication would be referred to the Committee on House Administration, that committee would delete Title VII before introducing the bill. The Committee on Ways and Means would then consider Title VII as a separate proposition.

§ 26.3 To a bill amending the rules of the House being considered pursuant to a resolution prohibiting amendments to the bill "which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI," an amendment directing the Committee on House Administration to pre-

pare and implement a plan to eliminate the political patronage employment system in the House of Representatives was ruled out of order as an attempt to change the jurisdiction of the Committee on House Administration. 116 CONG. REC. 32216, 91st Cong. 2d Sess., Sept. 16, 1970 [H.R. 17654, Legislative Reorganization Act of 1970].

§ 26.4 The Chairman of the Committee on House Administration announced to the House his intention to contract with an appropriate firm to determine, on a Member's request, whether that Member's phone was being tapped. 117 CONG. REC. 10097, 92d Cong. 1st Sess., Apr. 7, 1971.

§ 26.5 In the 87th Congress, the Committee on House Administration, and not the Committee on Post Office and Civil Service, had jurisdiction of bills amending the act to regulate and fix rates of pay for employees of the Government Printing Office (44 USC § 305). 107 CONG. REC. 6284, 87th Cong. 1st Sess., Apr. 19, 1961.

§ 26.6 The House agreed to a privileged resolution, reported from the Committee on Rules, authorizing the Committee on House Administration to conduct investigations within its jurisdiction whether or not the House is in session and conferring subpena authority upon that committee. 120 CONG. REC. 29653, 29654, 93d Cong. 2d Sess., Aug. 21, 1974 [H. Res. 737].

§ 26.7 The 94th Congress adopted the rules in existence at the close of the 93d Congress with amendments, which, *inter alia,* amended Rule X relative to jurisdiction of the Committee on House Administration to give that committee jurisdiction over campaign contributions and concurrent jurisdiction with the Committee on Post Office and Civil Service over compensation and retirement of Members, officers, and employees of the House; and amended Rule X by transferring jurisdiction over campaign financing from the Committee on Standards of Official Conduct to the House Administration Committee. 121 CONG. REC. 20, 21, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5].

§ 27. Committee on Interior and Insular Affairs

§ 27.1 The Committee on Interior and Insular Affairs, not the Committee on Armed Services, has jurisdiction of bills providing that proceeds from the disposal of oil shale lands [other than Naval Oil Shale Reserves] shall go to a special Treasury account, available for disbursement by the Secretary of the Treasury for educational purposes. 113 CONG. REC. 21179, 90th Cong. 1st Sess., Aug. 3, 1967 [H.R. 10531].

§ 27.2 The Committee on Interior and Insular Affairs, and not the Committee on the Judiciary, has jurisdiction of proposals to reserve for the use of the Department of Defense certain areas in the Outer Continental Shelf, and to exclude them from the mineral leasing provisions of the Outer Continental Shelf Lands Act. 109 CONG. REC. 8777, 88th Cong. 1st Sess., May 16, 1963.

§ 27.3 The Committee on Interior and Insular Affairs, and not the Committee on the Judiciary, has exercised jurisdiction of private bills providing for the reinstatement and validation of a U.S. oil and gas lease. 105 CONG. REC. 15190, 86th Cong. 1st Sess., Aug. 5, 1959 [H.R. 8437].

§ 27.4 Bills relating to claims by the United States to lands along the Colorado River, where it forms the boundary between states and where the government's claim is founded upon accretion or avulsion, are referred to the Committee on Interior and Insular Affairs, not the Committee on the Judiciary. 113 CONG. REC. 17738, 90th Cong. 1st Sess., June 28, 1967.

§ 27.5 The Committee on Interior and Insular Affairs, and not the Committee on Agriculture, has jurisdiction of bills designating and setting aside certain national forest lands, created from the public domain, as wilderness areas as defined by law. 115 CONG. REC. 11459, 91st Cong. 1st Sess., May 6, 1969 [H.R. 393 and H.R. 3682]. A bill reported from the Committee on Agriculture, amending the Forest and Rangeland Renewable Resources Planning Act of 1976 (reported from that committee in the 93d Congress) to create a comprehensive management program for all national forest lands, including those created from the public domain, was sequentially referred to the Committee on Interior and Insular Affairs for consideration of matters within its jurisdiction under Rule X clause 1(j). 122 CONG. REC. 29274, 94th Cong. 2d Sess., Sept. 8, 1976 [H.R. 15069]. *Note:* The Committee on Interior and Insular Affairs had jurisdiction, under the clause cited, over forest reserves and national parks created from the public domain, while the Committee on Agriculture had jurisdiction, under Rule X clause 1a(13), over forestry in general and forest reserves other than those created from the public domain. See also 123 CONG. REC. 23434, 95th Cong. 1st Sess., July 18, 1977 [H.R. 8223], indicating that the Committee on Interior and Insular Affairs had jurisdiction over a bill amending section 1862 of title 18 to limit the application of a criminal trespass provision applying in a reserve in a national forest created from the public domain. *Note:* The bill in this instance had been referred to the Committee on the Judiciary because it solely addressed a federal criminal statute, but that committee later agreed that the measure should be properly considered by the Committee on the Interior along with the other legislation affecting the reserve.

§ 27.6 The Committee on Interior and Insular Affairs, and not the Committee on Agriculture, has jurisdiction of bills directing the Secretary of Agriculture to set aside for recreational use certain lands which have been established as wilderness areas pursuant to the Wilderness Act of 1964 (78 Stat. 890). 111 CONG. REC. 6822, 89th Cong. 1st Sess., Apr. 5, 1965 [H.R. 6891].

§ 27.7 In the 93d Congress, the Committee on Interior and Insular Affairs, and not the Committee on Public Works, had jurisdiction over a bill to direct the Secretary of the Interior to rename the Alamogordo Reservoir in New Mexico. 119 CONG. REC. 22103, 93d Cong. 1st Sess., June 28, 1973 [H.R. 8094]. *Note:* The Alamogordo Reservoir was authorized as a flood control project by 53 Stat. 1414, a bill reported by the Public Works Committee.

§ 27.8 In the 87th Congress, the Committee on Interior and Insular Affairs, and not the Committee on Public Works, had jurisdiction of matters relating to the financing of the Bonneville Power Administration and the marketing of power. 107 CONG. REC. 3799, 87th Cong. 1st Sess., Mar. 13, 1961.

§ 27.9 Under the rule in effect in the 86th Congress, the Committee on Interior and Insular Affairs, and not the Committee on Public Works, had jurisdiction of bills to provide for the inclusion of the Nebraska Mid-State unit in the Missouri River Basin project. 105 CONG. REC. 18587, 86th Cong. 1st Sess., Sept. 8, 1959.

§ 27.10 The Committee on Interior and Insular Affairs, and not the Committee on the District of Columbia, has jurisdiction of bills establishing a Commission on Pennsylvania Avenue to develop plans for the further development of the avenue as a national historic site. 111 CONG. REC. 27803, 89th Cong. 1st Sess., Oct. 21, 1965.

§ 27.11 The Committee on Interior and Insular Affairs has jurisdiction of military parks (including the cemeteries therein) administered by the Secretary of the Interior and the

National Park Service. 113 CONG. REC. 29560, 29564-67, 90th Cong. 1st Sess., Oct. 20, 1967.

§ 27.12 The Committee on Interior and Insular Affairs, and not the Committee on the Judiciary, has jurisdiction over proposals to provide for compensation of innocent persons killed or injured or whose property was damaged by the occupation of Wounded Knee, South Dakota. 120 CONG. REC. 7306, 93d Cong. 2d Sess., Mar. 20, 1974.

§ 27.13 The Committee on Interior and Insular Affairs, and not the Committee on Interstate and Foreign Commerce, has jurisdiction over bills to provide for review of electric power rate increases promulgated by the Secretary of the Interior at Bureau of Reclamation projects. 120 CONG. REC. 10769, 93d Cong. 2d Sess., Apr. 11, 1974 [H.R. 14221].

§ 27.14 The Committee on Interior and Insular Affairs, and not the Committee on Public Works and Transportation, has jurisdiction over a bill authorizing the Secretary of the Interior to conduct a feasibility investigation of potential water resource developments. 121 CONG. REC. 12764, 94th Cong. 1st Sess., May 1, 1975 [H.R. 6411].

§ 27.15 The Committee on Interior and Insular Affairs, and not the Committee on the Judiciary, has jurisdiction over bills to establish a commission to consider the creation of a Hudson River Compact. 121 CONG. REC. 23653, 94th Cong. 1st Sess., July 21, 1975 [H.R. 5483].

§ 27.16 By unanimous consent, the Committee on Ways and Means was discharged from further consideration of a bill amending the Internal Revenue Code to provide for quarterly rather than annual payment to the government of the Virgin Islands of amounts equal to internal revenue collections made with respect to articles produced there and sent to the United States, and the bill was rereferred to the Committee on Interior and Insular Affairs, with the understanding that the rereferral did not affect the jurisdiction of the Committee on Ways and Means over the subject matter of the bill. 121 CONG. REC. 31870, 31871, 94th Cong. 1st Sess., Oct. 6, 1975 [H.R. 9432].

§ 27.17 The House adopted a resolution which *inter alia,* amended Rule X by abolishing the legislative jurisdiction in the House of the Joint Committee on Atomic Energy [clause 5(e)] and transferring its jurisdiction over regulation of the domestic nuclear energy industry to the Committee on Interior and Insular Affairs [clause 1(j)]. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress].

§ 28. Committee on International Relations; Committee on Foreign Affairs

§ 28.1 The Committee on Foreign Affairs, and not the Committee on the District of Columbia, has jurisdiction over measures providing for the establishment of a District of Columbia corporation intended to provide support for the activities of private American organizations engaged in the field of communications with foreign peoples. 117 CONG. REC. 21062, 92d Cong. 1st Sess., June 21, 1971 [Ex. Comm. No. 740].

§ 28.2 A resolution designating a day for the celebration in the House of Pan American Day was referred to the Committee on Foreign Affairs. 112 CONG. REC. 4887, 89th Cong. 2d Sess., Mar. 3, 1966. *Note:* Resolutions setting a date for the celebration of Pan American Day are normally submitted and called up by unanimous consent, without reference to a committee. The resolution is normally submitted and called up by the Chairman, Subcommittee on Inter-American Affairs, Committee on Foreign Affairs.

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§ 28.3 Memorials of foreign legislative bodies, paying tribute to the memory of the late President John F. Kennedy, were referred by the Speaker to the Committee on Foreign Affairs. 109 CONG. REC. 25251, 88th Cong. 1st Sess., Dec. 19, 1963.

§ 28.4 The House adopted a privileged resolution reported from the Committee on Rules, amending Rule X to redesignate the Committee on Foreign Affairs as the Committee on International Relations. 121 CONG. REC. 7343, 94th Cong. 1st Sess., Mar. 19, 1975 [H. Res. 163]. In 1979, the House amended Rule X clause 1(k) to change the name of the Committee on International Relations to the Committee on Foreign Affairs. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 5, 1979 [H. Res. 89].

§ 28.5 Following the adoption of a resolution amending Rule X to redesignate the Committee on Foreign Affairs as the Committee on International Relations, the House by unanimous consent amended Rule XXI clause 4 to reflect the new name of the committee. 121 CONG. REC. 7354, 94th Cong. 1st Sess., Mar. 19, 1975 [H. Res. 163].

§ 28.6 The Committee on International Relations (which has jurisdiction over international commodity agreements) as well as the Committee on Agriculture (which has jurisdiction over domestic availability of agricultural commodities) has "oversight" jurisdiction over the President's annual report on agriculture export activities under the food for peace program, where that report contains information on domestic availability and production. 122 CONG. REC. 1956, 94th Cong. 2d Sess., Feb. 3, 1976.

§ 28.7 The House adopted a resolution amending Rule X by abolishing legislative jurisdiction in the House of the Joint Committee on Atomic Energy [clause 5(e)] and transferring its jurisdiction over nonproliferation of nuclear technology and agreements on exports thereof to the Committee on International Relations [clause 1(k)]. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress].

§ 28.8 The Committee on International Relations, and not the Committee on Post Office and Civil Service, has jurisdiction over resolutions expressing the sense of the House that the Soviet Union permit emigration and the free expression of religious beliefs and cultural expression and that the Congress support "Solidarity Sunday". 123 CONG. REC. 17138, 95th Cong. 1st Sess., June 1, 1977.

§ 28.9 The Committee on International Relations has concurrent jurisdiction with the Committee on Agriculture over joint resolutions directing the President, the Secretary of Agriculture, and other officials to develop and implement a program for the expansion of sales of American agricultural commodities abroad in order to protect the welfare of American farmers. 124 CONG. REC. 5022, 95th Cong. 2d Sess., Feb. 28, 1978 [H.J. Res. 615, H.J. Res. 690].

§ 28.10 The Committee on International Relations, and not the Committee on Banking, Finance and Urban Affairs had jurisdiction over executive communications from the Secretary of the Treasury transmitting performance audit reports for the International Bank for Reconstruction and Development and post-evaluation reports for the Asian Development Bank, pursuant to the Foreign Assistance Act [87 Stat. 718, § 301(e)(3)]. 124 CONG. REC. 11658, 95th Cong. 2d Sess., Apr. 26, 1978 [Exec. Comm. No. 3638].

§ 28.11 The Committee on Foreign Affairs has concurrent jurisdiction with the Committee on Post Office and Civil Service over a concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning the nondelivery of international mail to per-

sons residing in the Soviet Union, that the State Department pursue such matter at diplomatic levels, and that the U.S. Delegation to the next Congress of the Universal Postal Union seek the compliance of the Soviet Union with the acts of the Universal Postal Union. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 2, 1979 [H. Con. Res. 167].

§ 29. Committee on Interstate and Foreign Commerce (Changed in the 96th Congress to Energy and Commerce)

§ 29.1 In the 86th Congress, the Committee on Interstate and Foreign Commerce, and not the Committee on Government Operations, had jurisdiction of bills to require passenger-carrying motor vehicles purchased for use by the federal government to meet certain safety standards. 105 CONG. REC. 2420, 86th Cong. 1st Sess., Feb. 16, 1959.

§ 29.2 In the 87th Congress, the Committee on Interstate and Foreign Commerce had jurisdiction of bills creating civil remedies (including injunctions) in the federal courts for misleading or false advertising, dilution of trademark or trade name distinctiveness, or violation of commercial ethics. 108 CONG. REC. 9601, 87th Cong. 2d Sess., June 4, 1962 [H.R. 10038 and H.R. 10124 were identical bills based on language in H.R. 4590, which was originally referred to the Committee on Interstate and Foreign Commerce].

§ 29.3 In the 91st Congress, the Committee on Interstate and Foreign Commerce, and not the Committee on Ways and Means, was given jurisdiction over legislative proposals providing for the expansion and improvement of airports and related facilities, even where such proposals included amendments to the Internal Revenue Code and the imposition of user charges on passengers and property transported by air; but the Committee on Ways and Means reserved the right to consider the tax features of such legislative proposals separately. 115 CONG. REC. 16301, 91st Cong. 1st Sess., June 18, 1969, where on motion of the Chairman of the Committee on Ways and Means, by unanimous consent, an executive communication proposing the enactment of an Aviation Facilities Expansion Act and including extensive amendments to the Internal Revenue Code was rereferred from the Committee on Ways and Means to the Committee on Interstate and Foreign Commerce.

§ 29.4 The Committee on Interstate and Foreign Commerce, having consistently handled legislation relating to noncommercial educational broadcasting facilities pursuant to its jurisdiction under clause 13(g) Rule XI over interstate communications, was held to have jurisdiction of a proposal adding a new section to the Higher Education Facilities Act of 1963 authorizing loan guarantees to institutions of higher education for development and use of educational delivery (telecommunications) systems on and off campus. 117 CONG. REC. 38076, 92d Cong. 1st Sess., Oct. 28, 1971 [H.R. 7248].

§ 29.5 In the 92d Congress the Committee on Interstate and Foreign Commerce, and not the Committee on Interior and Insular Affairs, was given jurisdiction of bills to assist in financing the Arctic Winter Games in Alaska in 1974. 118 CONG. REC. 19935, 92d Cong. 2d Sess., June 7, 1972 [S. 2988].

§ 29.6 The Committee on Interstate and Foreign Commerce has exclusive jurisdiction, not concurrently with the Committee on Banking, Currency and Housing, as a health facilities matter over bills dealing with nursing home construction. 121 CONG. REC. 18009, 94th Cong. 1st Sess., June 10, 1975. *Note:* The nursing home bills had previously been jointly referred to both committees.

§ 29.7 The Committee on Interstate and Foreign Commerce, and not the Committee on Banking, Currency and Housing, has jurisdiction as a public health matter over bills amending the Lead-Based Paint Poisoning Prevention Act. 121 CONG. REC. 18009, 94th Cong. 1st Sess., June 10, 1975.

§ 29.8 *Note:* Effective just prior to noon on Jan. 3, 1975, the Committee on Interstate and Foreign Commerce was redesignated as the Committee on Commerce and Health pursuant to a resolution which reformed the structure, jurisdiction, and procedures of House committees. H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974.

§ 29.9 The 94th Congress adopted the rules in existence at the close of the 93d Congress with amendments, which, *inter alia,* amended Rule X clause 1(f) to change the name of the Committee on Commerce and Health back to the Committee on Interstate and Foreign Commerce and redesignating subclauses. 121 CONG. REC. 20, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5].

§ 29.10 When the legislative jurisdiction in the House of the Joint Committee on Atomic Energy was transferred to various standing committees, the Committee on Interstate and Foreign Commerce was given the same jurisdiction over nuclear energy as it had over nonnuclear energy and facilities. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress].

§ 29.11 The Committee on Interstate and Foreign Commerce has concurrent jurisdiction with the Committee on Public Works and Transportation over an executive communication from the Secretary of Transportation proposing draft legislation to amend the Hazardous Materials Transportation Act to authorize appropriations for the purposes of that act. 123 CONG. REC. 20708, 95th Cong. 1st Sess., June 24, 1977.

§ 29.12 The House enlarged the energy jurisdiction of the Committee on Interstate and Foreign Commerce—renamed the Committee on Energy and Commerce—by conferring on it jurisdiction over "national energy policy," "exploration, production, storage, supply marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources," "commercial application of energy technology," "management of the Department of Energy and the Federal Energy Regulatory Commission," and also specifically conferring jurisdiction over "demonstration" of energy technology on the Committee on Science and Technology. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 25, 1980 [H. Res. 549].

§ 30. Committee on the Judiciary

§ 30.1 The Committee on the Judiciary and not the Committee on Education and Labor has jurisdiction of proposals amending the Civil Rights Act of 1957 [42 USC § 1975c(a)] to include discrimination on the basis of sex among the several forms of discrimination to be investigated by the Civil Rights Commission. 117 CONG. REC. 39248, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education]. *Note:* A section of an amendment in the nature of a substitute recommended by the Committee on Education and Labor amending section 104 of the Civil Rights Act of 1957 was conceded to be within the jurisdiction of the Committee on the Judiciary and was stricken from the substitute under a special procedure permitting points of order to be raised against "any title, part or section of the substitute," the subject matter of which was "properly within the jurisdiction" of any other standing committee. However, the Committee on the Judiciary has concurrent jurisdiction with the

Committee on Education and Labor over bills amending several titles of the Civil Rights Act (including title VII relating to employment rights) to prohibit discrimination on the basis of affectional or sexual preference. 123 CONG. REC. 6832, 95th Cong. 1st Sess., Mar. 9, 1977 [H.R. 451, and H.R. 2998]. The Committee on the Judiciary also has concurrent jurisdiction with the Committee on Education and Labor over a bill prohibiting discrimination on the basis of affectional or sexual preference under the civil rights laws and under the General Education Act. 124 CONG. REC. 12914, 95th Cong. 2d Sess., May 8, 1978 [H.R. 12149].

§ 30.2 The Committee on the Judiciary and not the Committee on Ways and Means has jurisdiction of bills "to provide that the several States shall not impose taxes" in respect of income derived from certain interstate activities. 105 CONG. REC. 11317, 86th Cong. 1st Sess., June 18, 1959 [H.R. 7715]. But see 120 CONG. REC. 29006, 93d Cong. 2d Sess., Aug. 19, 1974, where a bill adding a new section to the Internal Revenue Code prohibiting states from taxing individual income earned by persons not domiciled in that state or earned from sources outside that state was rereferred from the Committee on the Judiciary to the Committee on Ways and Means.

§ 30.3 The Committee on the Judiciary, and not the Committee on Post Office and Civil Service, has jurisdiction of bills establishing standards to govern possible conflicts of interest of employees of the executive branch of the government, providing the Attorney General with civil remedies for violations of these standards, and supplementing and revising the criminal laws (title 18, USC) prescribing restrictions against conflicts of interest. 106 CONG. REC. 3484, 86th Cong. 2d Sess., Feb. 25, 1960 [H.R. 10575].

§ 30.4 The Committee on the Judiciary, and not the Committee on Un-American Activities, had jurisdiction of bills establishing an Academy of Criminal Justice and providing for training and research in the administration of criminal justice. 111 CONG. REC. 6822, 89th Cong. 1st Sess., Apr. 5, 1965 [H.R. 6071 which had been inadvertently referred to the Committee on Un-American Activities].

§ 30.5 The Committee on the Judiciary, and not the Committee on Ways and Means, has jurisdiction of bills to eliminate racketeering in the interstate sale and distribution of cigarettes and to assist state and local governments in the enforcement of cigarette taxes. 118 CONG. REC. 3429, 92d Cong. 2d Sess., Feb. 9, 1972 [H.R. 7050, H.R. 12184, H.R. 12688, H.R. 12689].

§ 30.6 The Committee on the Judiciary, and not the Committee on Education and Labor, has jurisdiction of bills providing for compensation of firemen, not employed by the United States, who are killed or injured in the performance of duty during a civil disorder. 114 CONG. REC. 11798, 90th Cong. 2d Sess., May 6, 1968 [H.R. 16898].

§ 30.7 The Committee on the Judiciary, and not the Committee on House Administration, has jurisdiction of bills authorizing the Attorney General to consent, on behalf of the Library of Congress Trust Fund Board, to a modification of a certain trust of which the Library is a contingent beneficiary. 105 CONG. REC. 16051, 86th Cong. 1st Sess., Aug. 17, 1959 [H.R. 7415].

§ 30.8 Measures calling on the President to issue proclamations establishing periods of celebration or commemoration are within the jurisdiction of the Committee on the Judiciary. 113 CONG. REC. 11062, 90th Cong. 1st Sess., Apr. 27, 1967 [H.J. Res. 117, authorizing the President to extend his proclamation of a period to "See the United States"].

§ 30.9 The Committee on the Judiciary, and not the Committee on Veterans' Affairs, has considered private bills extending the time within which an educational program under

the Veterans' Benefits Act (title 38, USC) might be initiated. 105 CONG. REC. 7028, 86th Cong. 1st Sess., Apr. 29, 1959 [H.R. 3244 and 3991].

§ 30.10 The Committee on the Judiciary, and not the Committee on Ways and Means, has reported private bills specifying that a certain annuity fund is exempt from taxation under provisions of the Internal Revenue Code. 105 CONG. REC. 17612, 86th Cong. 1st Sess., Sept. 1, 1959 [H.R. 7854, to provide tax relief to the annuity fund of the electrical switchboard and panelboard manufacturing industry of New York and the contributors thereto].

§ 30.11 The Committee on the Judiciary, and not the Committee on Veterans' Affairs, has jurisdiction of a public bill amending an omnibus pension act to increase the amount of pension granted a certain class of persons. 106 CONG. REC. 2523, 86th Cong. 2d Sess., Feb. 15, 1960 [H.R. 10380].

§ 30.12 The Committee on the Judiciary, and not the Committee on Post Office and Civil Service, has jurisdiction of private bills to adjust the "annual-leave account" of an employee under the Federal Civil Service. 106 CONG. REC. 6131, 86th Cong. 2d Sess., Mar. 21, 1960 [H.R. 10432].

§ 30.13 The 94th Congress adopted the rules in existence at the close of the 93d Congress with amendments, which, *inter alia,* amended Rule X by abolishing the Committee on Internal Security and transferring jurisdiction on that subject to the Committee on the Judiciary, and by transferring files and staff accordingly. 121 CONG. REC. 20, 21, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5].

§ 30.14 The Committee on the Judiciary, and not the Committee on Education and Labor, has jurisdiction over bills amending the Indochina Migration and Refugee Assistance Act of 1975 (reported from the Judiciary Committee) to provide educational assistance to local educational agencies for Indochinese refugees. 121 CONG. REC. 25548, 94th Cong. 1st Sess., July 29, 1975 [H.R. 8949 and H.R. 8950].

§ 30.15 The Committee on the Judiciary has exclusive jurisdiction over the Legal Services Corporation notwithstanding the fact that the corporation was authorized under the Economic Opportunity Act, a matter within the jurisdiction of the Committee on Education and Labor. 121 CONG. REC. 37288, 37289, 94th Cong. 1st Sess., Nov. 19, 1975.

§ 30.16 The Committee on the Judiciary, not the Committee on Post Office and Civil Service, has jurisdiction over the extension of workmen's compensation benefits to nonfederal policemen and firemen. 121 CONG. REC. 40204, 94th Cong. 1st Sess., Dec. 12, 1975 [H.R. 9872]. *Note:* That section of title 5 of the United States Code extended certain benefits to nonfederal law enforcement officers and was reported by the Committee on the Judiciary. The bill H.R. 9872 referred to law enforcement officers and firemen and could thus have been within the jurisdiction of the Committee on Education and Labor as well as the Judiciary Committee.

§ 30.17 The Committee on the Judiciary, and not the Committee on House Administration, has jurisdiction over a bill to prohibit the denial or abridgement of the right of former criminal offenders to vote in elections for federal offices. 123 CONG. REC. 11122, 95th Cong. 1st Sess., Apr. 19, 1977 [H.R. 2438].

§ 30.18 The Committee on the Judiciary, and not the Committee on Public Works and Transportation, has jurisdiction over a bill to direct the Attorney General to provide for the construction of a correctional center. 123 CONG. REC. 14461, 95th Cong. 1st Sess., May 12, 1977 [H.R. 6305]. *Note:* Although the Committee on Public Works and Transportation has jurisdiction over federal construction projects, the bill in question would be administered solely by the Bureau of Prisons, which

falls within the jurisdiction of the Committee on the Judiciary.

§ 30.19 The Committee on the Judiciary, and not the Committee on Armed Services, has jurisdiction over a bill to amend 10 USC § 2737(a) to authorize the armed forces to pay claims against the United States for damages caused by civilian employees and members of the armed forces. 123 CONG. REC. 20890, 95th Cong. 1st Sess., June 27, 1977 [H.R. 7201].

§ 30.20 The Committee on the Judiciary has concurrent jurisdiction with the Committee on Banking, Finance and Urban Affairs over a bill to restrict access by the federal government to consumer reports and to financial, credit, and insurance records maintained by third parties. 123 CONG. REC. 23193, 95th Cong. 1st Sess., July 15, 1977 [H.R. 8280].

§ 30.21 The Committee on the Judiciary has concurrent jurisdiction with the Select Committee on Intelligence over bills concerning electronic surveillance of foreign intelligence information and communications. 123 CONG. REC. 37070, 95th Cong. 1st Sess., Nov. 4, 1977 [H.R. 7308, to authorize applications for court orders approving the use of electronic surveillance to obtain foreign intelligence information; H.R. 5632, to provide special procedures for applications for court orders for interception of communications to obtain foreign intelligence information].

§ 30.22 The Committees on the Judiciary and Rules jointly, and not the Committee on Post Office and Civil Service, have jurisdiction over a bill amending title 5, United States Code, to improve agency rulemaking and to create (privileged) procedures for congressional review. 124 CONG. REC. 3426, 95th Cong. 2d Sess., Feb. 15, 1978 [H.R. 10052].

§ 30.23 The Committee on the Judiciary has concurrent jurisdiction with the Committee on Ways and Means over resolutions stating congressional disapproval of Treasury Department regulations, promulgated under the Gun Control Act of 1968, requiring centralized governmental registration of certain firearms. 124 CONG. REC. 13560, 95th Cong. 2d Sess., May 15, 1978 [H.J. Res. 843, H. Con. Res. 558, H. Con. Res. 560].

§ 31. Committee on Merchant Marine and Fisheries

§ 31.1 The Committee on Merchant Marine and Fisheries, and not the Committee on Ways and Means, has jurisdiction over bills to amend title V of the Merchant Marine Act of 1936. 105 CONG. REC. 1606, 86th Cong. 1st Sess., Feb. 2, 1959 [H.R. 2181, to amend title V of the Merchant Marine Act, 1936, as amended, to promote the maintenance of the American fishing fleet under competitive conditions, sustaining fish food supplies in case of emergency, etc.].

§ 31.2 The Committee on Merchant Marine and Fisheries, and not the Committee on Interior and Insular Affairs, had jurisdiction in the 86th Congress of bills to provide for construction of saltwater research laboratories. 105 CONG. REC. 2382, 86th Cong. 1st Sess., Feb. 16, 1959 [H.R. 4402].

§ 31.3 In the 87th Congress, the Committee on Merchant Marine and Fisheries, and not the Committee on Interstate and Foreign Commerce, had jurisdiction of a bill designed to promote foreign commerce abroad through use of mobile trade fairs. 108 CONG. REC. 17706, 87th Cong. 2d Sess., Aug. 27, 1962. *Note:* While the text of the bill (S. 3389) did not disclose the fact, the trade fair contemplated by this bill would have involved U.S. naval or merchant vessels outfitted for this special purpose.

§ 31.4 In the 89th Congress, the Committee on Merchant Marine and Fisheries, and not the Committee on Interior and Insular Affairs, had jurisdiction of bills relating to marine re-

sources of the Continental Shelf and establishment of a Marine Exploration and Development Commission. 111 CONG. REC. 5001, 89th Cong. 1st Sess., Mar. 15, 1965. *Note:* H.R. 5884 and H.R. 6009, identical bills, were initially referred to the Committee on Interior and Insular Affairs since they dealt with the development of the land mass beneath the sea, but were rereferred at the instigation of its chairman, who declined jurisdiction.

§ 31.5 The Committee on Merchant Marine and Fisheries, and not the Committee on the Judiciary, has jurisdiction of bills regulating the importation and interstate shipment of wildlife species threatened with extinction, even though such proposals include amendments to title 18, United States Code. 113 CONG. REC. 11060, 90th Cong. 1st Sess., Apr. 27, 1967 [H.R. 6138 and H.R. 8693].

§ 31.6 The Committee on Merchant Marine and Fisheries, and not the Committee on Ways and Means, has jurisdiction of bills relating to the licensing of personnel on tug boats, towing boats and freight boats [amending 46 USC § 405]. 115 CONG. REC. 28798, 91st Cong. 1st Sess., Oct. 7, 1969 [H.R. 14186].

§ 31.7 The Committee on Merchant Marine and Fisheries, and not the Committee on Post Office and Civil Service, has jurisdiction of bills amending the Canal Zone Code to prescribe the design of postage stamps to be used in the Canal Zone postal service. 109 CONG. REC. 12120, 88th Cong. 1st Sess., July 2, 1963 [H.R. 6081].

§ 31.8 In the 87th Congress, the Committee on Merchant Marine and Fisheries, and not the Committee on Interior and Insular Affairs, had jurisdiction of a private bill to provide for the conveyance of certain land to a utility company. 107 CONG. REC. 2858, 87th Cong. 1st Sess., Feb. 28, 1961 [H.R. 3840]. *Note:* The land to be conveyed was under the control of the Bureau of Sport Fisheries and Wildlife, and was used for conservation and wildlife refuge purposes.

§ 32. Committee on Post Office and Civil Service

§ 32.1 The Committee on Post Office and Civil Service, and not the Committee on Armed Services, has jurisdiction of proposed legislation to authorize the Secretary of Defense and the secretaries of the military departments to grant return rights to career and career-conditioned employees under certain conditions. 105 CONG. REC. 3042, 86th Cong. 1st Sess., Feb. 26, 1959 [Ex. Comm. No. 553].

§ 32.2 The Committee on Post Office and Civil Service, and not the Committee on the District of Columbia, considered bills amending the District of Columbia Code to increase the salaries of certain District of Columbia judges whose salary adjustments had been omitted from the Federal Salary Act of 1968, which adjusted the pay of judicial, executive and legislative officials of the government. 115 CONG. REC. 38543, 91st Cong. 1st Sess., Dec. 11, 1969 [S. 3180]. *Note:* Certain judges in the District of Columbia had been inadvertently omitted at the time the omnibus legislation was passed by the two Houses. The Chairman of the District of Columbia Committee agreed to this rereference since the subject matter had previously been considered in the Post Office and Civil Service Committee and was part of the overall legislative scheme reported by that committee in 1968, notwithstanding the fact that it amended the District of Columbia Code.

§ 32.3 The Committee on Post Office and Civil Service, and not the Committee on Education and Labor, was held to have jurisdiction under clause 15(f) of Rule XI ("Status of officers and employees of the United States, including their compensation, classification, and retirement"), of proposals establishing the

position of Deputy Commissioner of a Bureau of Occupational Education at GS-18 and prescribing the number of supergrade positions which must be assigned thereto. 117 CONG. REC. 39286, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248]. A section of an amendment in the nature of a substitute recommended by the Committee on Education and Labor containing a subsection prescribing certain GS and supergrade positions within a Bureau of Occupational Education (a subject within the jurisdiction of the Committee on Post Office and Civil Service), was stricken from the substitute under a special procedure permitting points of order to be raised against "any title, part or section of the substitute the subject matter of which was properly within the jurisdiction of any other standing committee."

§ 32.4 The Committee on Post Office and Civil Service [to which was transferred jurisdiction over holidays and celebrations—Rule X clause 1(o)(7)] and not the Committee on the Judiciary, had jurisdiction in the 94th Congress of measures (1) designating the national march and dance of the United States; and (2) expressing appreciation to named individuals for particular achievements. 121 CONG. REC. 10345, 94th Cong. 1st Sess., Apr. 16, 1975 [H.J. Res. 137, 244, designating the square dance as the national folk dance; H.J. Res. 257, designating "Stars and Stripes Forever" as the national march; H. Con. Res. 138, 155, expressing appreciation to Mr. Frank Wills (security guard at the Watergate complex); H. Res. 238, honoring J. Lyman Goldsmith, retired administrator of the Los Angeles school district].

§ 32.5 In the 94th Congress, the Committee on Post Office and Civil Service, and not the Committee on the Judiciary, had jurisdiction over legislation relating to the American Revolution Bicentennial Administration [Rule X clause 1(o)(8)]. 121 CONG. REC. 24811, 94th Cong. 1st Sess., July 25, 1975 [H.J. Res. 540].

§ 32.6 The Committee on Post Office and Civil Service has concurrent jurisdiction with the Committee on Foreign Affairs over a concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning the nondelivery of international mail to persons residing in the Soviet Union, that the State Department pursue such matter at diplomatic levels, and that the U.S. Delegation to the next Congress of the Universal Postal Union seek the compliance of the Soviet Union with the acts of the Universal Postal Union. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 2, 1979 [H. Con. Res. 167].

§ 33. Committee on Public Works and Transportation

§ 33.1 Under the rules in effect in the 89th Congress, the Committee on Public Works had jurisdiction over the Public Works and Economic Development Act, including the designation of areas of high unemployment as redevelopment areas, financial aid in the form of public works grants, technical assistance, and the establishment of action planning commissions. 111 CONG. REC. 19940, 89th Cong. 1st Sess., Aug. 11, 1965 [S. 1648]. *Note:* The Area Redevelopment Act [Pub. L. No. 87-27] (originally within the jurisdiction of the Committee on Banking and Currency) was largely supplanted by the Public Works and Economic Development program [Pub. L. No. 89-136], reported by the Committee on Public Works.

§ 33.2 In the 86th Congress, the Committee on Public Works, and not the Committee on Interior and Insular Affairs, had jurisdiction of proposed legislation dealing with the establishment of revolving-type funds in the Treasury for the Southeastern and Southwestern Power Administrations. 105 CONG. REC. 12629, 86th

Cong. 1st Sess., July 2, 1959 [Ex. Comm. No. 1109].

§ 33.3 In the 90th Congress, the Committee on Public Works, and not the Committee on Education and Labor, had jurisdiction of bills authorizing and directing the Secretary of the Army to provide school facilities for dependents of construction workers engaged in the building of Corps of Engineers projects. 114 CONG. REC. 17429, 90th Cong. 2d Sess., June 17, 1968 [H.R. 17487, for the education of dependents of persons engaged in the construction of the Dworshak Dam].

§ 33.4 In the 89th Congress, the Committee on Public Works, and not the Committee on Armed Services, had jurisdiction of bills authorizing the Secretary of the Army to convey to a third party lands acquired by the government as part of a Corps of Engineers public works-flood control project. 111 CONG. REC. 17002, 89th Cong. 1st Sess., July 15, 1965 [H.R. 1296].

§ 33.5 In the 87th Congress, the Committee on Public Works, and not the Committee on Agriculture, had jurisdiction of proposed legislation enabling the Secretary of Agriculture to construct and maintain a system of roads and trails for the national forests. 108 CONG. REC. 7826, 87th Cong. 2d Sess., May 7, 1962 [Ex. Comm. No. 2000].

§ 33.6 Under the rules of the 89th Congress bills providing for Federal economic assistance and economic development programs as part of a state centennial observance were within the jurisdiction of the Committee on Public Works, and not the Committee on the Judiciary. 112 CONG. REC. 4579, 89th Cong. 2d Sess., Mar. 2, 1966 [H.R. 9963]. *Note:* As introduced, this bill was primarily an economic development measure, contemplating public works to stimulate tourism and commercial development. In this form, the bill was primarily within the jurisdiction of the Committee on Public Works. As reported, the primary emphasis of the bill was Federal recognition of and participation in the centennial celebration of the Alaska purchase. Economic development was a secondary purpose. In this form, the bill was similar to centennial bills that are normally, under the precedents, referred to the Committee on the Judiciary.

§ 33.7 The Committee on Public Works and Transportation, and not the Committee on House Administration, has jurisdiction over a bill authorizing the Smithsonian Institution to construct museum support facilities. 114 CONG. REC. 9553, 90th Cong. 2d Sess., Apr. 10, 1968 [H.R. 16358]. 124 CONG. REC. 13305, 95th Cong. 2d Sess., May 11, 1978 [S. 1029]. *Note:* Matters relating to the Smithsonian that do not involve construction are within the jurisdiction of the Committee on House Administration.

§ 33.8 The Committee on Public Works, and not the Committee on the District of Columbia, had jurisdiction of bills directing the National Capitol Planning Commission to study the location and development of the John F. Kennedy Center for the Performing Arts. 111 CONG. REC. 23927, 89th Cong. 1st Sess., Sept. 15, 1965 [H.J. Res. 646]; 111 CONG. REC. 27803, 89th Cong. 1st Sess., Oct. 21, 1965 [H.J. Res. 659].

§ 33.9 In the 93d Congress, the Committee on Public Works, and not the Committee on the Judiciary, had jurisdiction of a bill to authorize the President to settle claims against the United States for losses incurred by oyster fishermen in Louisiana as the result of damage to oyster beds caused by the opening of spillways by the United States to avoid flooding populated areas. 120 CONG. REC. 27266, 93d Cong. 2d Sess., Aug. 7, 1974 [S. 2201, settlement of damage claims arising out of United States actions in opening spillways].

§ 33.10 In the 93d Congress, the Committee on Public Works, and not the Committee on House Administration, had jurisdiction over a

bill to extend to each former Speaker as long as needed the provisions of law providing for two staff members, office space, stamps, stationery, telephone, and other office equipment. 120 CONG. REC. 33720, 93d Cong. 2d Sess., Oct. 3, 1974 [H.R. 17026]. *Note:* House Administration had originally reported House Resolution 1238, 91st Congress, to provide former Speaker McCormack with an office and staff allowance, and that resolution was incorporated into permanent law by 84 Stat. 1989—the Supplemental Appropriations Act, 1971.

§ 33.11 *Note:* Effective Jan. 3, 1975, the Committee on Public Works was redesignated as the Committee on Public Works and Transportation pursuant to a resolution which reformed the structure, jurisdiction, and procedures of House committees. H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974.

§ 33.12 In the 94th Congress, the Committee on Public Works and Transportation, and not the Committee on Appropriations, was the "appropriate committee" under § 1017(a) of the Impoundment Control Act of 1974 (88 Stat. 337) to have jurisdiction over an impoundment resolution disapproving the President's proposed deferral of certain highway contract budget authority (in advance of the actual appropriation). 121 CONG. REC. 5535, 94th Cong. 1st Sess., Mar. 6, 1975 [H. Res. 229, disapproving proposed deferral of budget authority regarding highway funds].

§ 33.13 The Committee on Public Works and Transportation, and not the Committee on Interior and Insular Affairs has jurisdiction over bills transferring land under the control of the Corps of Engineers to Indian tribes. 122 CONG. REC. 1577, 94th Cong. 2d Sess., Jan. 29, 1976 [H.R. 7628].

§ 33.14 The Committee on Public Works and Transportation, and not the Committee on Interstate and Foreign Commerce, has jurisdiction over bills to amend the Interstate Commerce Act to regulate truck transportation. 122 CONG. REC. 4109, 94th Cong. 2d Sess., Feb. 24, 1976 [H.R. 11664].

§ 33.15 The Committee on Public Works and Transportation has concurrent jurisdiction, with the Committee on Interstate and Foreign Commerce, over an executive communication from the Secretary of Transportation proposing draft legislation to amend the Hazardous Materials Transportation Act to authorize appropriations for the purposes of that act. 123 CONG. REC. 20708, 95th Cong. 1st Sess., June 24, 1977.

§ 33.16 The Committee on Public Works and Transportation and not the Committee on Government Operations has jurisdiction over bills amending the Uniform Relocation Assistance and Real Property Acquisition Policies Act dealing with relocation and litigation expenses under that act. 123 CONG. REC. 23408, 95th Cong. 1st Sess., July 18, 1977 [H.R. 8215, providing reimbursement of litigation expenses to real property owners prevailing in litigation arising from condemnation of real property to be administered by the Park Service; H.R. 8259, providing that no relocation payments made under the act shall be paid to persons unlawfully in the United States].

§ 33.17 The Committee on Public Works and Transportation and not the Committee on Banking, Finance and Urban Affairs has jurisdiction over a bill amending the Uniform Relocation Assistance and Real Property Acquisition Policies Act to extend relocation assistance under that act to persons displaced by federally assisted programs. 123 CONG. REC. 30004, 95th Cong. 1st Sess., Sept. 20, 1977 [H.R. 5475].

§ 33.18 The Committee on Public Works and Transportation, and not the Committee on Interstate and Foreign Commerce, has jurisdiction over bills amending the Interstate Commerce Act relative to uniform standards for

trucks. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 1, 1979.

§ 33.19 The Committee on Public Works and Transportation has concurrent jurisdiction with the Committee on Ways and Means over a bill creating a public transportation trust fund, composed of a percentage of the funds generated by a windfall profit tax on domestic crude oil, to be available as provided in appropriation acts for expenditures for public transportation projects. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 26, 1979 [H.R. 5375].

§ 34. Committee on Rules

§ 34.1 *Note:* The Committee on Rules has jurisdiction over propositions to make or change the rules of the House, or to create committees or direct them to make investigations. It reports special orders providing the times and methods for consideration of public bills or classes of bills, thereby enabling the House to determine the order and manner of consideration of measures on the House or Union Calendars. The Rules Committee also has exercised the authority to bring a measure, not reported by a committee, directly before the House for its consideration.

§ 34.2 The Committee on Rules has jurisdiction of resolutions authorizing the Committee on the Judiciary to investigate the conduct of federal officials and directing that committee to report its findings to the House "together with such resolutions of impeachment it deems proper." 112 CONG. REC. 3665, 89th Cong. 2d Sess., Feb. 22, 1966 [H. Res. 739, authorizing the Committee on the Judiciary to conduct certain investigations into the official conduct of three Federal District Court Judges in Oklahoma.

§ 34.3 Resolutions introduced under clause 4 Rule XXII which directly call for the impeachment or censure of the President are referred by the Speaker to the Committee on the Judiciary, whereas resolutions calling for an investigation by that committee or by a select committee with a view toward impeachment are referred to the Committee on Rules. 119 CONG. REC. 34819, 93d Cong. 1st Sess., Oct. 23, 1973 [H. Res. 627].

§ 34.4 The Committees on Rules and the Judiciary jointly, and not the Committee on Post Office and Civil Service, have jurisdiction over a bill amending title 5, United States Code, to improve agency rulemaking and to create (privileged) procedures for congressional review. 124 CONG. REC. 3426, 95th Cong. 2d Sess., Feb. 15, 1978 [H.R. 10052].

§ 35. Committee on Science and Technology; Committee on Small Business

§ 35.1 Under the rules in effect in the 90th Congress, the Committee on Science and Astronautics, and not the Committee on Interior and Insular Affairs, had jurisdiction of bills to establish a Council on Environmental Quality and to study environmental changes and their effect on man. 113 CONG. REC. 9708, 90th Cong. 1st Sess., Apr. 17, 1967 [H.R. 7796].

§ 35.2 In the 91st Congress, the Committee on Science and Astronautics, and not the Committee on Foreign Affairs, had jurisdiction of bills and resolutions expressing the support of Congress for the International Biological Program, established under the auspices of the International Council of Scientific Unions and sponsored in the United States by the National Academy of Sciences. 115 CONG. REC. 10745, 91st Cong. 1st Sess., Apr. 29, 1969 [H.J. Res. 589].

§ 35.3 The Committee on Science and Astronautics had jurisdiction of plans "making certain transfers from the Department of Defense to the National Aeronautics and Space Ad-

ministration" pursuant to authority contained in section 302 of the National Aeronautics and Space Act of 1958. 106 CONG. REC. 564, 86th Cong. 2d Sess., Jan. 14, 1960.

§ 35.4 The Committee on Science and Astronautics, and not the Committee on Foreign Affairs, had jurisdiction of bills, messages, and communications dealing with the participation of the United States in the World Science Pan-Pacific Exposition. 105 CONG. REC. 11810, 86th Cong. 1st Sess., June 24, 1959 [H.R. 7431 et seq.].

§ 35.5 *Note:* Effective Jan. 3, 1975, the Committee on Science and Astronautics was redesignated as the Committee on Science and Technology pursuant to a resolution which reformed the structure, jurisdiction, and procedures of House committees. H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974.

§ 35.6 A bill initially referred to the Committee on Science and Technology was referred to the Union Calendar by the Speaker and considered under an "open rule" without a sequential referral to the Committee on Government Operations, upon agreement between the chairmen of both committees that an amendment would be accepted striking out a provision within the jurisdiction of Government Operations. 121 CONG. REC. 35433, 94th Cong. 1st Sess., Nov. 6, 1975 [H. Res. 837, providing for consideration of H.R. 10230, the National Science and Technology Policy and Organization Act of 1975].

§ 35.7 On Jan. 4, 1977, the Committee on Science and Technology was given jurisdiction over nuclear research and development, upon the abolition of the legislative jurisdiction in the House of the Joint Committee on Atomic Energy. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress].

§ 35.8 A bill reported from the Committee on Armed Services, authorizing appropriations for the Energy Research and Development Administration for national security applications of nuclear energy, was sequentially referred to the Committee on Science and Technology for consideration of such portions of title I of the bill relating to nonmilitary nuclear energy research and development as fell within that committee's jurisdiction under Rule X clause 1(r). 123 CONG. REC. 13980, 95th Cong. 1st Sess., May 9, 1977 [H.R. 6566]. *Note:* Title I of the bill provided authorizations for "laser fusion" and "naval reactor development" which the Committee on Science and Technology maintained were at least partially within its jurisdiction in that military development in those areas had essential civilian applications.

§ 35.9 The Committee on Science and Technology has concurrent jurisdiction with the Committee on Agriculture over a bill establishing research and development resulting in the commercialization of latex rubber. 124 CONG. REC. 12914, 95th Cong. 2d Sess., May 8, 1978 [H.R. 5720].

§ 35.10 The Committee on Science and Technology has concurrent jurisdiction with the Committees on Armed Services and Interior and Insular Affairs over bills to test the commercial, environmental, and social viability of various oil shale technologies within the naval oil shale reserves or on other public lands. 124 CONG. REC. 31623, 95th Cong. 2d Sess., Sept. 26, 1978 [S. 419, H.R. 12818, and H.R. 13424].

§ 35.11 The Committee on Science and Technology, and not the Committee on Interstate and Foreign Commerce, has jurisdiction over a bill to promote methods of research, including biomedical research, that minimize the use of, and pain and suffering to, live animals, and to require the use of such methods by any federal agency conducting research. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 28, 1979 [H.R. 282].

§ 35.12 *Note:* Effective Jan. 3, 1975, the Select Committee on Small Business was made

a standing committee pursuant to a resolution. H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974.

§ 35.13 The Committee on Science and Technology, jointly with the Committee on Foreign Affairs, has jurisdiction over a joint resolution condemning the internal exile of Andrei Sakharov by the Soviet Union and recommending, *inter alia,* that all government agencies including NASA, the National Bureau of Standards, and the National Science Foundation, defer official travel to the Soviet Union. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 30, 1980 [H.J. Res. 487].

§ 36. Committee on Standards of Official Conduct

§ 36.1 The Committee on Standards of Official Conduct had jurisdiction over measures amending the rules of the House relating to financial disclosure by Members, officers and employees of the House. 116 CONG. REC. 1077, 91st Cong. 2d Sess., Jan. 26, 1970 [H. Res. 796]. In 1977, jurisdiction over this subject was transferred to the Committee on Rules. See Ch. 12 § 1, supra.

§ 36.2 The Committee on Standards of Official Conduct informed the Speaker of its investigations into roll call procedures in the House, and of its recommendations for the installation of a modernized voting system in the House. 115 CONG. REC. 16629, 91st Cong. 1st Sess., June 19, 1969.

§ 36.3 Rule XI clause 20 was amended to confer upon the Committee on Standards of Official Conduct jurisdiction over measures relating to (1) lobbying activities affecting the House, and (2) raising, reporting and use of campaign contributions for candidates for the House; and the committee was given authority to investigate those matters and to report its findings to the House. 116 CONG. REC. 23136, 23138-41, 91st Cong. 2d Sess., July 8, 1970 [H. Res. 1031]. *Note:* The Committee on House Administration retains jurisdiction, under clause 10 Rule XI, over "corrupt practices" and "Federal elections generally."

§ 36.4 In the 95th Congress, the House adopted a resolution abolishing the legislative jurisdiction of the Committee on Standards of Official Conduct over financial disclosure and lobbying and transferring to the Committee on Rules jurisdiction over rules relating to financial disclosure by Members, officers, and employees. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress].

§ 36.5 While the Committee on Standards of Official Conduct has jurisdiction, under Rule X clauses 1(t) and 4(e)(1), to conduct investigations into improper conduct by Members, officers, and employees, the House may adopt a privileged resolution, reported from the Committee on Rules, specifically mandating the Committee on Standards of Official Conduct to conduct a particular investigation and providing broadened jurisdiction and special authorities and procedures to govern such investigation. 123 CONG. REC. 3966-68, 95th Cong. 1st Sess., Feb. 9, 1977 [H. Res. 252, to authorize an investigation by the Committee on Standards of Official Conduct of improper influence on Members of Congress by the Republic of Korea].

§ 37. Committee on Veterans' Affairs

§ 37.1 The Committee on Veterans' Affairs, and not the Committee on Armed Services, has jurisdiction of bills to amend § 200 of the Soldiers and Sailors Civil Relief Act of 1940 to permit the establishment of certain facts by a declaration under penalty of perjury in lieu of an affidavit. 105 CONG. REC. 1812, 86th Cong. 1st Sess., Feb. 4, 1959.

§ 37.2 The Committee on Veterans' Affairs, and not the Committee on Armed Services, has jurisdiction over bills "To amend § 102 of the Servicemen's and Veterans' Survivor Benefits Act to provide that all retired members of the uniformed services who served not less than 25 years on active duty and who thereafter die shall be considered to have died service-connected deaths." 105 CONG. REC. 8273, 86th Cong. 1st Sess., May 18, 1959 [H.R. 1129].

§ 37.3 The rules of the House were amended to transfer jurisdiction over veterans' cemeteries administered by the Secretary of the Army from the Committee on Interior and Insular Affairs to the Committee on Veterans' Affairs. 113 CONG. REC. 29560, 29564-67, 90th Cong. 1st Sess., Oct. 20, 1967 [H. Res. 241]. *Note:* The Committee on Interior and Insular Affairs retains jurisdiction of military parks (including the cemeteries therein) administered by the Secretary of the Interior and the National Park Service.

§ 38. Committee on Ways and Means

§ 38.1 Under the rules in effect in the 86th Congress, the Committee on Ways and Means, and not the Committee on Interstate and Foreign Commerce, had jurisdiction of bills amending the Federal Alcohol Administration Act. 105 CONG. REC. 15190, 86th Cong. 1st Sess., Aug. 5, 1959 [H.R. 6860, to amend section 5(B)4 of the Federal Alcohol Administration Act].

§ 38.2 In the 88th Congress, the Committee on Ways and Means, and not the Committee on Interior and Insular Affairs, had jurisdiction of bills relating to the economic improvement of Indians by, *inter alia,* providing tax incentives (including deductions from gross income under the Internal Revenue Code) for persons investing on Indian property or furthering industrialization on Indian reservations. 110 CONG. REC. 1582, 88th Cong. 2d Sess., Feb. 1, 1964 [H.R. 980, to provide for "Operation Bootstrap" for American Indians].

§ 38.3 In the 92d Congress, the House by privileged resolution reported from the Committee on Rules, authorized the Committee on Ways and Means to conduct investigations within its jurisdiction, to hold hearings, to travel outside the United States, and to use counterpart funds. 117 CONG. REC. 39513, 92d Cong. 1st Sess., Nov. 5, 1971 [H. Res. 597].

§ 38.4 The Committee on Ways and Means, and not the Committee on the Judiciary, has jurisdiction of a bill to add a new section to the Internal Revenue Code prohibiting states or subdivisions from imposing a tax on individual income earned by persons not domiciled in that state or earned from sources outside that state. 120 CONG. REC. 29006, 93d Cong. 2d Sess., Aug. 19, 1974 [H.R. 1190, to amend the Internal Revenue Code to prevent multiple taxation of certain kinds of income]. *Note:* Several bills not directly amending the Internal Revenue Code which seek to regulate state taxation of interstate commerce or to limit the taxing authority of states over out-of-state persons or sources remained within the Judiciary Committee's jurisdiction and were not rereferred.

§ 38.5 The Committee on Ways and Means, and not the Committee on Education and Labor, had jurisdiction in the 94th Congress over bills amending the Emergency Jobs and Unemployment Assistance Act of 1974 to provide extended and increased unemployment compensation. 121 CONG. REC. 10346, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 2398, 3513, 4375, 4462, 4463]. Similarly, the Committee on Ways and Means, and not the Committee on Post Office and Civil Service, has jurisdiction over bills to provide unemployment compensation to individuals with federal or military service residing in Guam. 122

CONG. REC. 11590, 94th Cong. 2d Sess., Apr. 28, 1976 [H.R. 12776].

§ 38.6 A bill reported from the Committee on Banking, Currency and Housing, creating a National Consumer Cooperative Bank and providing that the bank and its assets be exempt from local, state, and federal taxation, was sequentially referred to the Committee on Ways and Means for consideration of such provisions of the bill as fell within the jurisdiction of that committee under Rule X clause 1(v). 122 CONG. REC. 28532, 94th Cong. 2d Sess., Aug. 31, 1976 [H.R. 14829]. *Note:* Section 404 of the bill exempted the bank and its assets from taxation until the stock of the bank owned by the United States had been fully retired. Examples of prior bills sequentially referred to the Committee on Ways and Means for consideration of tax exemption provisions are H.R. 10481, Intergovernmental Emergency Assistance Act, on Nov. 6, 1975, and the synthetic fuels bill, H.R. 12112, on June 18, 1976.

§ 38.7 The Committee on Ways and Means has concurrent jurisdiction with the Committee on the Judiciary over resolutions stating congressional disapproval of Treasury Department regulations, promulgated under the Gun Control Act of 1968, requiring centralized governmental registration of firearms. 124 CONG. REC. 13560, 95th Cong. 2d Sess., May 15, 1978 [H.J. Res. 843, H. Con. Res. 558, and H. Con. Res. 560].

§ 38.8 The Committee on Ways and Means has concurrent jurisdiction with the Committee on Education and Labor over a bill amending the Employment Retirement Income Security Act of 1974 to permit assignments or alienations of certain rights under pension plans. 124 CONG. REC. 24217, 95th Cong. 2d Sess., Aug. 3, 1978 [H.R. 13446].

§ 38.9 By unanimous consent, the Committee on Ways and Means was given jurisdiction over a bill to offset the loss in tax revenues incurred by Guam and the Virgin Islands by reason of certain federal tax reductions. 124 CONG. REC. 24926, 95th Cong. 2d Sess., Aug. 8, 1978 [H.R. 13719]. *Note:* The bill authorized the Secretary of the Treasury to make payments to Guam and the Virgin Islands, in an amount equivalent to their losses pursuant to designated revenue acts, and authorized appropriations for such purposes, but did not amend or affect any revenue acts. Such bills had been referred to the Committee on Interior and Insular Affairs.

§ 38.10 The Committee on Ways and Means has concurrent jurisdiction with the Committee on Public Works and Transportation over a bill creating a public transportation trust fund, composed of a percentage of the funds generated by a windfall profit tax on domestic crude oil, to be available as provided in appropriation acts for expenditures for public transportation projects. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 26, 1979 [H.R. 5375].

D. COMMITTEE REPORTS

§ 39. In General

§ 39.1 *Note:* A committee report, apparently valid and showing on its face nothing to impeach its authenticity, is taken from the hopper and referred to the proper calendar under Rule XIII clause 2. See, for example, 111 CONG. REC. 27481, 89th Cong. 1st Sess., Oct. 19, 1965. Under the rules of the House, bills reported adversely are laid on the table unless the committee reporting a bill or a Member requests its reference to a calendar. Rule XIII clause 2. However, adverse reports on resolutions of inquiry are placed on the appropriate calendar and are not subject to the requirements of Rule XIII clause 2. 125 CONG.

REC. p. ....., 96th Cong. 1st Sess., June 11, 1979 [H. Res. 291].

§ 39.2 The form and content of a committee report is governed by the rules of the House and not by a law requiring the submission of certain reports by executive agencies. Thus, a point of order will not lie against a committee report on the ground that an executive agency has failed to report to Congress in accordance with law. 113 CONG. REC. 18558, 90th Cong. 1st Sess., July 12, 1967 [S. 20, to establish a National Water Commission].

§ 39.3 A point of order that a committee did not vote to approve a report to accompany legislation as required by its rules is properly made in that committee and not in the House, since no rule of the House requires committees to separately approve legislative reports and because such reports are in the nature of argument and are not directly acted upon by the House. 117 CONG. REC. 35820-24, 92d Cong. 1st Sess., Oct. 12, 1971 [H.R. 10835, Consumer Protection Act of 1971]. The fact that the Committee on Government Operations had not complied with its rule requiring a vote on the approval of every committee report was held not to prohibit the consideration of the bill which the report accompanied, where the bill had been validly ordered reported without a point of order being raised in committee at that time and where the committee had consistently interpreted that rule to be applicable only to investigative reports.

§ 39.4 A point of order that a committee report is not in proper form will not lie in the Committee of the Whole. 112 CONG. REC. 16840, 16842, 89th Cong. 2d Sess., July 25, 1966 [H.R. 14765, Civil Rights Act of 1966], where on appeal, the committee sustained the Chair's ruling that a point of order against the form of a committee report comes too late after the House has resolved itself into the Committee of the Whole.

§ 39.5 The Chairman of the Committee on Internal Security announced to the House that the U.S. District Court for the District of Columbia had issued an order temporarily restraining the Public Printer from printing a report to be submitted to the House, pending a hearing in that court on a motion for a preliminary injunction against its publication. The chairman also announced his intention to file the report despite the court order. 116 CONG. REC. 36680, 36770, 91st Cong. 2d Sess., Oct. 14, 1970 [H. Rept. No. 91-1607, a survey of honorariums given guest speakers for engagements at colleges and universities]. See also 116 CONG. REC. 41940, 91st Cong. 2d Sess., Dec. 16, 1970, where the Speaker laid before the House a communication from the Public Printer, advising that he had printed, published and distributed the report from the Committee on Internal Security, pursuant to a resolution adopted by the House and served upon him.

§ 39.6 The Chairman of the Committee on Ways and Means, who was Vice Chairman of the Joint Committee on Internal Revenue Taxation, announced his filing as a House report of a joint committee staff analysis of President Nixon's tax returns for the years 1969-1972. 120 CONG. REC. 9564, 9630, 93d Cong. 2d Sess., Apr. 3, 1974.

§ 39.7 The House adopted a resolution waiving points of order against consideration of a bill for failure of the report thereon to include the number of votes cast for and against the motion to order the bill reported on a roll call vote in committee, in violation of Rule XI clause 2(l)(2)(B). 123 CONG. REC. 8911, 95th Cong. 1st Sess., Mar. 24, 1977 [H. Res. 430]. *Note:* The waiver was necessary because the report (H. Rept. No. 95-95) stated, at page 54, the "the committee unanimously approved the bill by roll call vote of those present" but did not state the number of affirmative votes. Compare § 39.3, supra.

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§ 39.8 The House adopted a resolution which, *inter alia,* waived points of order against consideration of a bill for failure of the committee report to be contained in one volume (part II of the report was an appendix). 123 CONG. REC. 25653, 95th Cong. 1st Sess., July 29, 1977 [H. Res. 727, providing for consideration of H.R. 8444, the National Energy Act of 1977].

§ 40. Printing and Distribution; Reports Containing Classified Material

§ 40.1 Reports of committees are ordinarily delivered to the Clerk for printing, but reports on resolutions adversely reported (under clause 2 of Rule XIII) are not printed unless a request is made that they be referred to a calendar. See, for example, 105 CONG. REC. 13493, 13508, 86th Cong. 1st Sess., July 15, 1959 [H. Con. Res. 245, et seq.].

§ 40.2 Where a bill is reported from a committee with amendments, the committee report identifies the amendments by page and line references to the bill as printed when referred; and such references may not correspond to the pages and lines of the reported print of the bill. 116 CONG. REC. 22115, 91st Cong. 2d Sess., June 30, 1970 [S.J. Res. 88, creating a commission to study U.S. bankruptcy laws].

§ 40.3 The rule of the Joint Committee on Printing against duplication printing permits printing of committee activity reports either in the *Congressional Record* or in pamphlet form as a "Committee Print" but not in both forms. 108 CONG. REC. 23516, 87th Cong. 2d Sess., Oct. 13, 1962; 111 CONG. REC. 27801, 89th Cong. 1st Sess., Oct. 21, 1965. Compare 106 CONG. REC. 19133, 19139, 86th Cong. 2d Sess., Sept. 1, 1960 (Legislative Day of Aug. 31), where, notwithstanding the rule of the Joint Committee on Printing against duplication printing, the chairman of a committee was, by unanimous consent, granted permission to have printed in the *Congressional Record* and in pamphlet form the activity report of that committee.

§ 40.4 Investigative reports filed with the Clerk by committees following adjournment of Congress *sine die* may be authorized, by unanimous consent, to be printed as reports of that Congress. 117 CONG. REC. 47676, 92d Cong. 1st Sess., Dec. 17, 1971; 118 CONG. REC. 37062, 92d Cong. 2d Sess., Oct. 18, 1972; 120 CONG. REC. 41860, 93d Cong. 2d Sess., Dec. 20, 1974.

§ 40.5 By unanimous consent, committee investigative reports filed with the Clerk during an adjournment to a day certain were authorized to be printed as reports of the 92d Congress. 118 CONG. REC. 29136, 92d Cong. 2d Sess., Aug. 18, 1972.

§ 40.6 The House adopted a resolution reported as privileged from the Committee on Rules, permitting the Select Committee on Intelligence to file its final report on a day when the House would not be in session, with a committee amendment precluding the select committee from releasing any report containing classified material until published with security markings and distributed only to persons authorized to receive classified information or until the President certified that nothing in the report jeopardized U.S. foreign intelligence activities. 122 CONG. REC. 1631-41, 94th Cong. 2d Sess., Jan. 29, 1976 [H. Res. 982, authorizing the select committee to file its final report by January 31, 1976]. *Note:* Pursuant to House Resolution 591, July 17, 1975, the select committee was directed to report to the House as soon as practicable but no later than January 31, 1976 (a Saturday when the House would not be in session). When its chairman could not obtain unanimous consent to file on a day the House would not be in session, he introduced House Resolution 982,

which was referred to the Committee on Rules.

§ 40.7 The House having adopted a resolution prohibiting the Select Committee on Intelligence from releasing any report containing classified material until published with security markings or until the President certified that nothing in the report jeopardized U.S. foreign intelligence activities, and permitting distribution only to persons authorized to receive classified information, the Speaker announced his referral of the report to five committees of the House possessing legislative jurisdiction over aspects of the select committee's recommendations, to be retained in their custody as executive session records under the provisions of Rule XI clause 2(e)(2), permitting Members access thereto but prohibiting disclosure or release without the permission of the House. 122 CONG. REC. 3158, 94th Cong. 2d Sess., Feb. 16, 1976. *Note:* There was no discussion in the Committee on Rules or on the floor of the House regarding Members' security clearance, and from the time of filing of the report with the Clerk on January 31 until February 16, the Clerk would not permit Members access to the report until the Speaker resolved the issue of their clearance. The Speaker determined that Members should be granted access to the report under the same conditions that govern their access to any classified material on file with any committee. Thus the Clerk was instructed to prepare five copies for distribution to each committee for Members' inspection under whatever additional committee rules were imposed. The recommendations of the select committee, since they contained no classified material, were referred to the Union Calendar and ordered printed on February 11 pursuant to House Resolution 982.

§ 40.8 The Speaker, having previously referred the final report of the Select Committee on Intelligence to five committees of the House for their study under restrictions permitting Members access thereto but prohibiting disclosure or release without permission of the House, announced his additional referral of that report to the Committee on Government Operations under the same restrictions. 122 CONG. REC. 6539, 94th Cong. 2d Sess., Mar. 16, 1976.

§ 40.9 In response to a parliamentary inquiry concerning the propriety of debate discussing the contents of a report which the House had ordered not to be released, the Speaker pro tempore indicated that while Members had access to the report—which had been referred by the Speaker to various committees and was part of their files—the restrictions imposed by the House and announced by the Speaker prohibited release or publication of the report. 122 CONG. REC. 8451, 94th Cong. 2d Sess., Mar. 29, 1976.

§ 40.10 The Speaker, having previously referred the final report of the Select Committee on Intelligence to five committees of the House for their study under restrictions permitting Members access thereto but prohibiting disclosure or release without permission of the House, and having subsequently referred the report to a sixth committee under the same restrictions, announced his additional referral of that report under those restrictions to the Committee on Standards of Official Conduct (which had been directed by the House to investigate its unauthorized publication in the press). 122 CONG. REC. 9261, 94th Cong. 2d Sess., Apr. 2, 1976.

§ 40.11 A "star print" of a committee report is a reprint intended to correct errors in the first printing of the report. A "star print" may be authorized without House permission where the error was made by the Government Printing Office. "Star prints" to correct errors attributable to the reporting committee require House authorization. 124 CONG. REC. 18806, 95th Cong. 2d Sess., June 23, 1978.

§ 41. — Comparative Prints; The Ramseyer Rule

§ 41.1 The so-called Ramseyer rule—Rule XIII clause 3—requires that when reporting a bill repealing or amending existing law, the committee must include a comparative print showing, by italic or other typographical device, the changes proposed. 109 CONG. REC. 18412, 88th Cong. 1st Sess., Oct. 1, 1963.

§ 41.2 The purpose of the Ramseyer rule is to require that committee reports furnish information relating to changes the bill proposes to make in existing law. 109 CONG. REC. 23036-38, 88th Cong. 1st Sess., Dec. 3, 1963 [H.R. 6196, to encourage increased consumption of cotton].

§ 41.3 In the 87th Congress, the Ramseyer rule was amended to provide that where a committee reports a bill with amendments the comparative print required by the rule must show the changes in existing law proposed by the bill, as amended, instead of by the bill as introduced. 107 CONG. REC. 20823, 87th Cong. 1st Sess., Sept. 22, 1961.

§ 41.4 *Note:* The Ramseyer rule requires the inclusion in a committee report of a comparative print of changes to existing law, but the rule would not apply to a bill containing a committee amendment in the nature of a substitute if the amendment makes no change in existing law, even though the introduced bill did propose such changes.

§ 41.5 By unanimous consent (or pursuant to Rule XI clause 28(d) as added January 22, 1971) a committee may be permitted to file a supplemental report on a bill so that the report will conform to the Ramseyer rule and show the changes in existing law proposed by the committee amendments as well as by the provisions of the bill as introduced. See 108 CONG. REC. 67, 87th Cong. 2d Sess., Jan. 11, 1962, where a supplemental report was permitted by unanimous consent.

§ 41.6 Where a bill amends one subsection of existing law but does not affect other parts of the section, the comparative print need only show the affected subsection. 112 CONG. REC. 16840, 16842, 89th Cong. 2d Sess., July 25, 1966 [H.R. 14765 (H. Rept. No. 1678), Civil Rights Act of 1966].

§ 41.7 The Ramseyer rule requiring a comparative print is not applicable unless the bill specifically amends existing law. 107 CONG. REC. 10068, 87th Cong. 1st Sess., June 12, 1961 [H.R. 7053, where a bill providing for the admission of certain evidence in courts of the District of Columbia that did not amend specific law was held not to be in violation of clause 3 Rule XIII].

§ 41.8 Unless the reported bill specifically amends existing law, a point of order against the bill, based on Rule XIII clause 3, will not lie. 109 CONG. REC. 18412, 88th Cong. 1st Sess., Oct. 1, 1963. 124 CONG. REC. 26204, 95th Cong. 2d Sess., Aug. 15, 1978 [H.J. Res. 638, the Equal Rights Amendment extension].

§ 41.9 A point of order will not lie against a committee report merely because the comparative print required by clause 3 Rule XIII incorporates laws which are not affected by the reported bill but which are included to give full information to the Members. 109 CONG. REC. 23036-38, 88th Cong. 1st Sess., Dec. 3, 1963 [H.R. 6196].

§ 41.10 The Ramseyer rule applies only when a committee reports a bill; hence a point of order alleging noncompliance with this rule will not lie where a committee is discharged from consideration of a bill. 110 CONG. REC. 20221, 88th Cong. 2d Sess., Aug. 19, 1964 [H.R. 11926].

§ 41.11 Where a committee has included an accurate "Ramseyer" section in its report on a bill, showing changes in existing law proposed by the bill, a point of order does not lie against consideration of the bill because of typo-

graphical or other printing errors by the Government Printing Office in that portion of the report. 111 CONG. REC. 18100, 89th Cong. 1st Sess., July 26, 1965; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 4, 1979 [H.R. 4962]. Printing errors should not give rise to a point of order that would result in recommittal of the bill; rather, the report should be "star printed" to eliminate the error. See 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 3, 1979 [H.R. 4962], where the Speaker pro tempore requested the manager of a bill to withdraw his motion that the House resolve into Committee of the Whole to consider the bill, pending a point of order against its consideration on the grounds that the committee report did not accurately show changes in existing law as required by clause 3 of Rule XIII, in order that the Chair could determine whether the errors in the report were the result of printing errors by the Government Printing Office or whether the committee itself had submitted an improper report.

§ 41.12 Where the comparative print required by clause 3 Rule XIII contained errors of three types, (1) punctuation at variance with that in the bill, (2) capitalization of certain words not capitalized in the bill, and (3) abbreviations which did not appear in the bill—the Speaker held that there was substantial compliance with the provisions of the Ramseyer rule and overruled a point of order against the report. 112 CONG. REC. 16840, 16842, 89th Cong. 2d Sess., July 25, 1966 [H.R. 14765 (H. Rept. No. 1678), Civil Rights Act of 1966].

§ 41.13 Where a point of order is raised against consideration of a bill on the ground that the report thereon does not adequately reflect all changes in existing law as required by Rule XIII clause 3, the Speaker may overrule the point of order on the ground that the committee has "substantially complied" with the rule. 114 CONG. REC. 24245, 24252-54, 90th Cong. 2d Sess., July 30, 1968 [H.R. 17126, Food and Agriculture Act of 1968]. The comparative print required by Rule XIII clause 3, contained errors of four types: (1) failure to show by "stars" [***] the omission of sections of law not amended by the bill and thus not carried in the Ramseyer print; (2) typographical errors, (such as ",971" instead of "1971"); (3) errors of punctuation; and (4) failure to indicate one out of 28 date changes. The Speaker held that in a Ramseyer print consisting of 22 pages, the above errors were insignificant, and he overruled the point of order on the ground that the committee had substantially complied with the rule. In the 89th Congress, where a committee report, in the comparative print required by Rule XIII clause 3, contained a typographical error [the word "or" being shown as "of"], a point of order did not lie against the report. 111 CONG. REC. 18100, 89th Cong. 1st Sess., July 26, 1965 [H.R. 77].

§ 41.14 A point of order that a committee report fails to comply with clause 3 Rule XIII will not lie in the Committee of the Whole. 112 CONG. REC. 16840, 16842, 89th Cong. 2d Sess., July 25, 1966 [H.R. 14765, Civil Rights Act of 1966].

§ 41.15 A point of order that a report fails to comply with the requirement that proposed changes in law be indicated typographically, as required by the Ramseyer rule, is properly made when the bill is called up in the House and before the House resolves into the Committee of the Whole. 105 CONG. REC. 13226, 86th Cong. 1st Sess., July 13, 1959.

§ 41.16 A point of order against consideration of a bill for failure of the accompanying committee report to indicate proposed changes in existing law is only in order pending a motion to consider the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 3, 1979 [H.R. 4962]. The proper time to raise a point of order that a committee report fails to comply with the Ramseyer rule is when the motion is made to go into the Committee of

the Whole to consider the bill. 114 CONG. REC. 24245, 24252, 90th Cong. 2d Sess., July 30, 1968 [H.R. 17126]. Such a motion may be withdrawn pending a point of order against consideration of the bill for failure of the accompanying report to comply with the Ramseyer rule, and if the motion is withdrawn the Chair is not obligated to rule on the point of order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 3, 1979 [H.R. 4962]

§ 41.17 Where a point of order was made against a bill on ground that the report did not comply with the Ramseyer rule, and the contention was made that the point of order came too late, the House already having adopted a resolution making the consideration of the bill in order, the Chair overruled the point of order, holding that there had been adequate compliance with Rule XIII clause 3. 109 CONG. REC. 18412, 88th Cong. 1st Sess., Oct. 1, 1963 [H.R. 7044].

§ 41.18 The provisions of Rule XIII clause 3 of the 93d Congress, "the Ramseyer Rule"—which require reports accompanying bills or joint resolutions repealing or amending existing law to contain a comparative print indicating the proposed changes—are not applicable to reports accompanying simple resolutions. 120 CONG. REC. 32956, 32957, 93d Cong. 2d Sess., Sept. 30, 1974 [H. Res. 988, to reform the structure, jurisdiction, and procedures of House committees], in which the Speaker overruled a point of order that a report accompanying a simple resolution amending Rule XI did not indicate the proposed effect on the legislative jurisdiction of a joint committee established by statute.

§ 41.19 The provisions of Rule XI clause 4(d) of the 94th Congress requiring the Committee on Rules to include a "Ramseyer" of proposed rules changes in its reports apply only to proposed repeal or amendment of House rules, and not to resolutions which temporarily waive certain rules during the consideration of particular business. 121 CONG. REC. 7677, 94th Cong. 1st Sess., Mar. 20, 1975 [H. Res. 337, providing for consideration of H.R. 4485, the Emergency Middle-Income Housing Act of 1975]; 121 CONG. REC. 8418, 94th Cong. 1st Sess., Mar. 24, 1975 [H. Res. 352, providing for consideration of H.R. 4222, to amend the National School Lunch Health and Child Nutrition Acts]. *Note:* There was no relevant legislative history on the applicability of Rule XI clause 4(d) to resolutions proposing temporary waivers, but by analogy the precedents indicate that the Ramseyer rule is not applicable unless a reported bill specifically amends or repeals existing law—as opposed to temporary suspensions or waivers of other law [8 Cannon's Precedents §§ 2235, 2241].

§ 41.20 While a resolution reported from the Committee on Rules temporarily waiving the provisions of § 401 of the Congressional Budget Act—in order to permit consideration of a bill in the House—is an "exercise in the House's rulemaking authority" within the meaning of § 904 of that act, the accompanying report need not include a "Ramseyer" since no permanent amendment or repeal of House rules is proposed. 121 CONG. REC. 7677, 94th Cong. 1st Sess., Mar. 20, 1975 [H. Res. 337, providing for consideration of H.R. 4485, the Emergency Middle-Income Housing Act of 1975].

§ 41.21 The Ramseyer rule was ruled not applicable to a joint resolution extending the period for state ratification of a constitutional amendment submitted to the states where the joint resolution did not specifically change the ratification deadline in the proposed amendment but rather extended the period "notwithstanding" any provision in the prior joint resolution which had proposed the amendment. 124 CONG. REC. 26204, 95th Cong 2d Sess., Aug. 15, 1978 [H.J. Res. 638, the Equal Rights Amendment extension].

§ 42. Cost-estimate Requirements; Oversight Findings

§ 42.1 A House rule requires that each public bill or joint resolution reported by a committee must contain certain estimates of the costs which would be incurred in carrying out such bill or joint resolution. (Rule XIII clause 7.) However, a bill or resolution may be called up under a special rule that permits consideration thereof notwithstanding a failure to comply with the cost-estimate requirement, or which waives points of order based thereon. 118 CONG. REC. 24100, 92d Cong. 2d Sess., July 18, 1972 [H. Res. 1012]; 118 CONG. REC. 26584, 92d Cong. 2d Sess., Aug. 3, 1972 [H. Res. 1071]; 118 CONG. REC. 29093, 92d Cong. 2d Sess., Aug. 18, 1972 [H. Res. 1097].

§ 42.2 A special rule waiving points of order against consideration of bills for failure of the accompanying report to comply with cost-estimate rule is sometimes provided even though the report states that no additional costs were anticipated. 119 CONG. REC. 11785, 93d Cong. 1st Sess., Apr. 11, 1973 [H. Res. 349]. *Note:* The committee report stated merely that no additional costs were anticipated by enactment of the bill. But since the bill repealed existing provisions of law relating to the franking privilege, and the proposed new law differed in several respects (e.g., franking privilege permanently extended to widows of former Presidents), the costs of reenactment of the law with those changes should have been estimated in the report.

§ 42.3 In 1975, the House adopted a rule requiring that committee reports on approved measures include oversight findings and recommendations which are to be clearly identified and separately set out. Rule XI clause 2(l)(3)(A). *Note:* Since the intent of that rule was to require committees to include oversight findings—if they were available—in their report, failure to include such material would subject the bill to a point of order when called up for consideration. Under the precedents, failure of a committee report to comply with House rules may result in automatic recommittal of the bill if a point of order is sustained. Under Rule XI clause 2(l)(5) however, a committee may file a supplemental report to correct technical errors in its initial report, and recommittal would not be required.

§ 42.4 The House adopted a resolution waiving points of order against consideration of a bill where the cover of the report failed to indicate the inclusion of Congressional Budget Office cost estimates therein, as required by Rule XI clause 2(l)(5)(B). 122 CONG. REC. 17782, 17783, 94th Cong. 2d Sess., June 11, 1976 [H. Res. 1245, providing for consideration of H.R. 12944]; 122 CONG. REC. 28288, 28289, 94th Cong. 2d Sess., Aug. 30, 1976 [H. Res. 1283, providing for consideration of H.R. 9398].

§ 42.5 The House adopted a resolution waiving points of order against consideration of a bill for failure of the committee report to contain a committee cost estimate in violation of Rule XIII clause 7 and an oversight statement in violation of Rule XI clause 2(l)(3)(A). 123 CONG. REC. 17965, 95th Cong. 1st Sess., June 8, 1977 [H. Res. 601, providing for consideration of H.R. 7010]. *Note:* Although the committee report contained a cost estimate transmitted by the Congressional Budget Office, the committee failed to include in its report a cost estimate prepared by the committee as required by Rule XIII clause 7 (or to specifically adopt the Congressional Budget Office estimate as its own). For a similar waiver, see 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 6, 1979 [H. Res. 310, providing for consideration of H.R. 3236].

§ 43. Time for Filing Report

§ 43.1 A standing committee may be authorized, by unanimous consent, to file reports

after the *sine die* adjournment. 108 CONG. REC. 22618, 87th Cong. 2d Sess., Oct. 5, 1962.

§ 43.2 By unanimous consent, the Committee on Government Operations was permitted to file a report on a bill subsequent to a projected *sine die* adjournment but on a day prior to expiration of the first session of the 93d Congress under the 20th Amendment (January 3). 119 CONG. REC. 42916, 93d Cong. 1st Sess., Dec. 20, 1973 [H.R. 11793].

§ 43.3 Leave was granted to a committee to file a privileged report, on a bill for admission of a new state, after adjournment but before midnight. 105 CONG. REC. 2178, 86th Cong. 1st Sess., Feb. 11, 1959.

§ 43.4 The Committee on Banking and Currency was granted permission by unanimous consent to have until midnight to file a report and an accompanying document showing changes in existing law as required by the Ramseyer rule. 112 CONG. REC. 15403, 15476, 89th Cong. 2d Sess., July 13, 1966.

§ 43.5 A select committee may be authorized, by unanimous consent, to file reports after the *sine die* adjournment. 108 CONG. REC. 22618, 87th Cong. 2d Sess., Oct. 5, 1962.

§ 43.6 A Member from the minority party, acting at the behest of a committee chairman, asked and secured unanimous consent that the committee have until midnight to file a report. 112 CONG. REC. 12191, 89th Cong. 2d Sess., June 2, 1966.

§ 43.7 The Committee on Appropriations was given until midnight to file a privileged report, [the only business on day devoted to eulogies to deceased colleague]. 109 CONG. REC. 9916, 88th Cong. 1st Sess., June 3, 1963.

§ 43.8 The Joint Economic Committee may be granted additional time in which to file a report. 105 CONG. REC. 3049, 86th Cong. 1st Sess., Feb. 26, 1959 [eight additional days]; 107 CONG. REC. 2935, 87th Cong. 1st Sess., Mar. 1, 1961 [two additional months]; 108 CONG. REC. 2948, 87th Cong. 2d Sess., Feb. 26, 1962 [one additional week]; 109 CONG. REC. 3231, 88th Cong. 1st Sess., Feb. 28, 1963 [two additional weeks]. The House passed a joint resolution extending the time specified by law for the Joint Economic Committee's annual report on the President's economic report, although such extensions of time have been accomplished by unanimous-consent requests in each House. 123 CONG. REC. 3796, 95th Cong. 1st Sess., Feb. 7, 1977 [H.J. Res. 239].

§ 43.9 The House, by unanimous consent, considered and passed a Senate joint resolution extending the date for transmission to Congress of the report of the Joint Economic Committee. 118 CONG. REC. 2915, 92d Cong. 2d Sess., Feb. 7, 1972 [S.J. Res. 196].

§ 43.10 The House passed several bills under suspension of the rules which had been ordered reported by the Committee on Interstate and Foreign Commerce, and then authorized that committee to file reports on those bills after the House adjourned that day. 120 CONG. REC. 139, 93d Cong. 2d Sess., Jan. 21, 1974.

§ 43.11 The Committee on House Administration, which under Rule XI clause 4 may file certain privileged reports at any time, may file from the floor a report to accompany a resolution involving the contingent fund, and the resolution is numbered upon filing of the report although not previously referred to the committee. 121 CONG. REC. 25555, 94th Cong. 1st Sess., July 29, 1975 [H. Res. 645, providing for adjustment of salaries of employees of the House Press Gallery].

§ 43.12 By unanimous consent, the Committee on House Administration was permitted to file a privileged report on a resolution disapproving proposed regulations submitted pursuant to Public Law No. 93-526 [§ 104(b)(5)], the Presidential Recordings and Materials Preservation Act, when the House was not in session. 121 CONG. REC. 32604, 94th Cong. 1st Sess., Oct. 9, 1975.

§ 43.13 Objection was raised to a unanimous-consent request of the Chairman of the Committee on Appropriations that his committee have until midnight to file a report on a (non-privileged) rescission bill containing language recommended by the President in a rescission message which changed the allocation of appropriated funds, rather than merely rescinding appropriated funds. 121 CONG. REC. 40828, 40829, 94th Cong. 1st Sess., Dec. 16, 1975 [H.R. 11174, to rescind certain budget authority]. *Note:* The Impoundment Control Act of 1974, Public Law No. 93-344, § 1011(3) defines a rescission bill as "a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President. . . ." The message submitted by the President not only proposed a rescission of certain school impact assistance funds, but also contained a change in the allocation formula and this change was included in the original bill. The bill was thus not privileged under the act and was never reported.

§ 43.14 A member of the Committee on Rules may, during the consideration of a privileged resolution he has called up, file another privileged report from that committee for reference to the House Calendar. 121 CONG. REC. 25827, 94th Cong. 1st Sess., July 30, 1975 [H. Res. 653, providing for taking from the Speaker's table the bill H.R. 2559, to amend title 39, United States Code].

§ 43.15 A resolution extending the reporting date for a select ad hoc committee (established under Rule X clause 5 for the consideration of a particular bill) is privileged when offered from the floor at the Speaker's request. 122 CONG. REC. 876, 94th Cong. 2d Sess., Jan. 26, 1976 [H. Res. 977]. *Note:* Since a resolution establishing a new ad hoc committee would have been privileged under Rule X clause 5 if offered at the Speaker's request, a resolution extending the reporting date for an existing committee is likewise privileged. See also 122 CONG. REC. 8885, 94th Cong. 2d Sess., Mar. 31, 1976 [H. Res. 1121, further extending the date for the report of same select committee].

§ 43.16 The House passed a resolution from the Committee on Rules permitting the Select Committee on Intelligence to file its final report on a day when the House would not be in session, and extending the period for filing a supplemental report containing the select committee's recommendations. 122 CONG. REC. 1631-41, 94th Cong. 2d Sess., Jan. 29, 1976 [H. Res. 982].

§ 43.17 By unanimous consent, the House considered and agreed to a resolution extending from September 11, 1976, until January 3, 1977, the time for the Select Committee on Missing Persons in Southeast Asia to file its report. 122 CONG. REC. 25086, 94th Cong. 2d Sess., Aug. 2, 1976 [H. Res. 1454].

§ 43.18 By unanimous consent, the Commission on Administrative Review was granted permission to file a report on financial ethics at a time when the House would not be in session, and the Speaker was authorized to print the report as a House document. 123 CONG. REC. 3885, 95th Cong. 1st Sess., Feb. 8, 1977.

§ 43.19 Where a committee does not report a measure to the House on or before the date specified by the Speaker pursuant to his authority under Rule X clause 5 to set a time limit on the reference to the committee, the Speaker may either extend the time limit for additional consideration by the committee or discharge the committee from further consideration and refer the measure to the appropriate calendar or to another committee. 123 CONG. REC. 22733, 95th Cong. 1st Sess., July 13, 1977 [H.R. 6831, to establish a comprehensive national energy policy]. Referrals generally, see Ch. 16, supra.

§ 43.20 While under Rule XI clause 2(i) 10 Members must object to a request to permit a committee to sit while the House is consider-

ing a bill under a five-minute rule, a single Member may object to a unanimous-consent request that a committee be permitted to file a report after the House has adjourned. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 10, 1979.

§ 44. Status as Privileged; Calling Up

§ 44.1 The committees which are permitted to report on certain subjects as a matter of privilege are specified by House rule. See Rule XI clause 4.

§ 44.2 A committee report is privileged where it takes up a question involving the privileges of the House. Thus, a committee report relating to the refusal of a witness to produce certain documents, as ordered, is privileged. 112 CONG. REC. 1742, 1762, 89th Cong. 2d Sess., Feb. 2, 1966 [H. Rept. No. 1241, H. Res. 699]. Likewise, a committee report relating to the refusal of a witness to testify or to answer any question before the committee at a hearing or properly authorized deposition is privileged (124 CONG. REC. 29580, 95th Cong. 2d Sess., Sept. 15, 1978), as is a report from a standing or select committee recommending that the refusal of a witness to testify be certified to the U.S. Attorney for contempt of Congress. 124 CONG. REC. 12070, 95th Cong. 2d Sess., May 2, 1978. Such a report is presented and read before a privileged resolution is offered directing the Speaker to certify the refusal to a U.S. Attorney. 124 CONG. REC. 29599, 95th Cong. 2d Sess., Sept. 15, 1978 [H. Res. 1350]. *Note.* A report relating to contemptuous conduct does not require a three-day layover before consideration, but a layover is preferable in order that Members may refer to the report.

§ 44.3 Prior to the adoption of the "three-day layover rule" [Rule XI clause 28(d)(4)], a report privileged under Rule XI clause 23 could be called up for consideration on the same day reported, and unanimous consent was not required. 111 CONG. REC. 13799, 89th Cong. 1st Sess., June 16, 1965 [H. Res. 416].

§ 44.4 A report from the Committee on Government Operations on a resolution disapproving a reorganization plan is filed through the hopper and not from the floor as privileged. 108 CONG. REC. 2263, 87th Cong. 2d Sess., Feb. 15, 1962 [H. Res. 530].

§ 44.5 A report from the Committee on Rules on establishment of a special House committee to investigate campaign expenditures is privileged and is so reported from the floor. 108 CONG. REC. 16000, 16012, 87th Cong. 2d Sess., Aug. 9, 1962 [H. Res. 753].

§ 44.6 The report of the Committee on the Judiciary on the nomination of Gerald R. Ford to be Vice President was filed through the hopper as nonprivileged matter. 119 CONG. REC. 39419, 93d Cong. 1st Sess., Dec. 4, 1973 [H. Rept. No. 695, H. Res. 735].

§ 44.7 A two-thirds vote is required to call up for consideration a resolution with its report from the Committee on Rules on the same day it is reported. 106 CONG. REC. 15775, 15785-90, 86th Cong. 2d Sess., July 2, 1960; 106 CONG. REC. 17673, 86th Cong. 2d Sess., Aug. 25, 1960. See also 112 CONG. REC. 10021, 89th Cong. 2d Sess., May 9, 1966, where the House, by a two-thirds vote, agreed to consider a report from the Committee on Rules on the same day it was reported, and 123 CONG. REC. 38721, 95th Cong. 1st Sess., Dec. 7, 1977. However, the requirement for a two-thirds vote on the question of consideration of a Committee on Rules report on the same day on which it is reported does not apply during the last three days of a session. 123 CONG. REC. 38999, 95th Cong. 1st Sess., Dec. 15, 1977. See Rule XI clause 4(b). See also Ch. 29 § 2.2, infra.

§ 44.8 While a concurrent resolution from the Committee on House Administration author-

izing the printing of material as a House document is reported as privileged, the report must be available to Members for three days as required by Rule XI clause 2(l)(6) before it can be called up as privileged. 121 CONG. REC. 5537, 94th Cong. 1st Sess., Mar. 6, 1975 [H. Con. Res. 146, providing for printing of the booklet "The History and Operation of the House Majority Whip Organization"].

§ 44.9 A privileged resolution reported from the Committee on House Administration was called up on the same day as reported by unanimous consent. 121 CONG. REC. 4011, 94th Cong. 1st Sess., Feb. 24, 1975 [H. Res. 208, a resolution to provide additional parking facilities]. *Note:* Rule XI clause 27(d)(4) of the 93d Congress excluded certain privileged reports from the three-day layover requirement. The Committee Reform Amendments of 1974 [H. Res. 988, 93d Cong. 2d Sess.] retained the privileged status of certain resolutions [Rule XI clause 4(a)] but deleted the three-day rule exemption for all committees except the Rules [Rule XI clause 2(l)(6)] and House Administration Committees for standing committee expense resolutions [Rule XI clause 5(a), (b)], which are subject to a separate one-day layover requirement. Accordingly, a privileged resolution reported from the Committee on House Administration providing for certain expenditures from the contingent fund (and not a committee expense resolution under Rule XI clause 5) may not be considered until the third day on which the report has been available, except by unanimous consent. 123 CONG. REC. 8432, 95th Cong. 1st Sess., Mar. 22, 1977 [H. Res. 393].

§ 44.10 A privileged report from the Committee on House Administration may be considered the same day reported only by unanimous consent. 121 CONG. REC. 5537, 94th Cong. 1st Sess., Mar. 6, 1975.

§ 44.11 Pursuant to Rule XI clause 4(b), a privileged report from the Committee on Rules may be considered on the same legislative day as reported only by a two-thirds vote, but a report filed by that committee pursuant to unanimous-consent permission at any time prior to convening of the House on the next legislative day may be called up for immediate consideration, and a two-thirds vote is not then required. 121 CONG. REC. 25826, 94th Cong. 1st Sess., July 31, 1975.

§ 44.12 The House agreed to a resolution reported from the Committee on Rules permitting consideration of privileged reports from that committee on the same day reported, for the balance of that week, without two-thirds vote for consideration. 121 CONG. REC. 41881, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Res. 939, waiving two-thirds consideration requirement for Rules Committee reports on the same day reported]. The same procedure has been used to permit such consideration during the remainder of a session. 122 CONG. REC. 33518-21, 94th Cong. 2d Sess., Sept. 29, 1976 [H. Res. 1581]. Generally, see Ch. 29 § 2, infra. See also 124 CONG. REC. 36924, 95th Cong. 2d Sess., Oct. 13, 1978 [H. Res. 1426, providing for consideration of reports from the Committee on Rules on the same day reported during the remainder of the session].

§ 44.13 The layover requirement of Rule XI clause 2(l)(6) was amended on January 4, 1977 (H. Res. 5, 95th Cong.) to permit consideration of a measure on the third day a report is available rather than on the third day following its availability. This change made consistent throughout the rules the requirement for a three-day rather than a four-day availability of all committee reports. [See Rule XXI clause 7 and Rule XXVIII clauses 2(a) and 2(b)]. The House also amended Rules XI and XXVIII to require copies of reports on measures reported from a committee (except special orders from the Committee on Rules, privileged reports from other committees, declarations of war or national emergencies, and disapprovals of executive determinations) to be available to Members for at least two hours prior to con-

sideration. The 96th Congress adopted provisions amending Rule XI clause 2(l)(6) to require that committee reports be available for three days (rather than two hours) prior to House consideration. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5].

§ 44.14 *Note:* The provisions of Rule XI clause 2(l)(6)—requiring the *availability* of committee reports and the reported measure for three calendar days—are not applicable to privileged reports from the Committee on Rules or reports on privileged resolutions from other committees. In counting the three days, Saturdays, Sundays, and legal holidays are excluded unless the House is in session.

§ 44.15 The House adopted a resolution which, *inter alia,* waived points of order against consideration of a bill for failure of the report to be available for three days. 123 CONG. REC. 25653, 95th Cong. 1st Sess., July 29, 1977 [H. Res. 727, providing for consideration of H.R. 8444, the National Energy Act of 1977, reported from the ad hoc Committee on Energy].

§ 45. Supplemental, Minority, and Additional Views

§ 45.1 *Note:* The chairman of a committee will sometimes obtain unanimous consent to file a supplemental report on a bill in order to correct a technical error in the original report. However, clause 28(d)(3) Rule XI permits the filing of a supplemental report to correct a technical error in a previous report, and unanimous consent is not required. 118 CONG. REC. 1527, 92d Cong. 2d Sess., Jan. 27, 1972 [H. Rept. No. 92-743 on H.R. 10086].

§ 45.2 By unanimous consent, the Committee on the Judiciary was permitted to file a supplemental report on a bill proposing changes in existing law, in order to comply with the Ramseyer rule. 116 CONG. REC. 34302, 91st Cong. 2d Sess., Sept. 30, 1970 [H.R. 2175].

§ 45.3 By unanimous consent, the Committee on Interstate and Foreign Commerce was given permission to file a supplemental report on a bill previously reported. 108 CONG. REC. 20522, 87th Cong. 2d Sess., Sept. 24, 1962.

§ 45.4 The minority members of a committee may, by unanimous consent, be permitted to file minority views, to accompany a House report previously filed and printed, as part II of such report. 108 CONG. REC. 5376, 87th Cong. 2d Sess., Mar. 29, 1962; 108 CONG. REC. 7747, 87th Cong. 2d Sess., May 3, 1962.

§ 45.5 A Member announced to the House that, through error, he had been listed as one of the signers of the minority views accompanying a committee report. 105 CONG. REC. 10014, 86th Cong. 1st Sess., June 5, 1959.

§ 45.6 Where certain Members have obtained permission of the House to file minority views, additional signatures may be appended at a later time only by unanimous consent. 109 CONG. REC. 23008, 88th Cong. 1st Sess., Dec. 2, 1963.

§ 45.7 Leave to file minority views while the House is not in session is granted by unanimous consent. 109 CONG. REC. 23008, 88th Cong. 1st Sess., Dec. 2, 1963.

§ 45.8 Additional views may be filed only by unanimous consent unless they accompany the original report when submitted. 109 CONG. REC. 20361, 88th Cong. 1st Sess., Oct. 28, 1968 [H.R. 8864, International Coffee Agreement Act of 1963]. See also 109 CONG. REC. 22822, 88th Cong. 1st Sess., Nov. 26, 1963, where a minority member of the Committee on the Judiciary secured unanimous consent that he and several other named Members be permitted to file additional views on a civil rights bill previously reported. While under Rule XI clause 2(l)(5) a Member may have three days to file additional views to accompany a committee report only if he has reserved that right by giving appropriate notice in committee at the

time the bill is ordered reported, the House may by unanimous consent permit a Member to file additional views to accompany a report when he has not given notice in committee. 122 CONG. REC. 15521, 94th Cong. 2d Sess., May 26, 1976. *Note:* Although the committee had ordered the bill reported and the Member had not served notice in committee of his intention to file additional views, the bill was not to be reported until committee action on certain other bills had been completed, and his request to file additional views did not delay the reporting of the bill.

§ 45.9 By unanimous consent, the Committee on Interstate and Foreign Commerce received permission to file a supplemental report on a bill previously reported by that committee. 121 CONG. REC. 18718, 94th Cong. 1st Sess., June 12, 1975. *Note:* Rule XI clause 2(l)(5) authorizes any committee to file a supplemental report to correct a technical error in a previous report made by that committee. However, the error to be corrected by this supplemental report was substantial, not technical, and it was therefore deemed appropriate to request unanimous consent to file the supplemental report. Unanimous consent is required for a committee to file a supplemental report containing substantive interpretations of a previously reported bill, although technical defects in a previous report may be corrected pursuant to Rule XI clause (2)(l)(5)(ii). 123 CONG. REC. 35006, 95th Cong. 1st Sess., Oct. 25, 1977. *Note:* The rule allows as a matter of right the filing of a supplemental report only to correct technical errors. In this instance, the Committee on Interstate and Foreign Commerce sought to file a supplemental report making new substantive interpretations of the reported bill, which the House permitted by unanimous consent.

§ 45.10 *Note:* Under the precedents, the failure of a committee report to comply with the House rules may result in the automatic recommittal of the bill if a point of order is sustained when the bill is called up. Under Rule XI clause 2(l)(5), however, the committee may file a supplemental report to correct technical errors in its initial report, in which case recommittal would not be required.

§ 45.11 A committee may, by unanimous consent, file a supplemental report on a bill to explain a committee amendment in the nature of a substitute adopted by the committee subsequent to the filing of the initial report. 122 CONG. REC. 17889, 94th Cong. 2d Sess., June 14, 1976 [H.R. 7743].

Chapter 18

Discharging Measures From Committees

§ 1. The Discharge Rule Generally; Motion to Discharge

§ 2. — Application of Motion

§ 3. — Calling Up; Debate

§ 4. — Effect of Agreement to Motion

§ 5. Procedures for Discharging Senate Measure From House Committee

§ 6. Procedures for Discharging Vetoed Bills, Resolutions of Inquiry, and Resolutions of Disapproval

§ 1. The Discharge Rule Generally; Motion to Discharge

§ 1.1 The so-called "discharge rule" is provided for by House rule. Under it, a Member may move to discharge a committee from the consideration of a public bill or resolution referred to it 30 legislative days prior thereto. The motion must be in writing and signed by a majority of the Members. The rule may also be applied against a resolution pending in the Committee on Rules for more than seven legislative days providing for consideration of a measure pending before a standing committee for 30 legislative days. Rule XXVII clause 4.

§ 1.2 The motion to discharge a bill or resolution must be signed by the required number of Members. 106 CONG. REC. 11837, 86th Cong. 2d Sess., June 3, 1960, where the required number of Members—at this time, 219, since the house had 438 members—signed a motion to discharge the Committee on Rules from the consideration of a resolution.

§ 1.3 The discharge rule authorizes the use of the motion against the Committee on Rules in a proper case. However, the so-called "21-day" rule, which was in effect in the 89th Congress under former Rule XI clause 24, whereby resolutions pending before the Committee on Rules could be called up for consideration, was held to be unrelated to the motion to discharge under Rule XXVII. 111 CONG. REC. 23618, 89th Cong. 1st Sess., Sept. 13, 1965 [H. Res. 478].

§ 1.4 A motion to discharge a committee under the provisions of Rule XXVII clause 4 is in order "immediately after the approval of the Journal;" but pending recognition of a Member to make such a motion, the Speaker has permitted a Member to proceed for one minute on an unrelated matter by unanimous consent. 116 CONG. REC. 27994-99, 91st Cong. 2d Sess., Aug. 10, 1970. In addition, the Speaker may in his discretion recognize for a one-minute speech prior to the consideration of a motion to discharge, 125 CONG. REC. p. ....., 95th Cong 1st Sess., July 24, 1979.

§ 1.5 In one instance, the House considered and passed under suspension of the rules a bill reported by the Committee on the Judiciary, with amendments, after a petition to discharge such bill pursuant to clause 4 Rule XXVII had received the necessary signatures, the bill having been reported before the motion to discharge had been on the discharge calendar for seven legislative days. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 24, 1980 [H.R. 3567].

§ 2. — Application of Motion

§ 2.1 On several occasions, the House has agreed to a motion to discharge the Committee on Rules from further consideration of a resolution making in order consideration of a bill. 106 CONG. REC. 12691, 12720, 86th Cong. 2d Sess., June 15, 1960 [H.R. 9883, to adjust rates of compensation for officers and employees of the Federal Government]; 111 CONG. REC. 22900, 89th Cong. 1st Sess., Sept. 3, 1965. See also 106 CONG. REC. 11843, 86th Cong. 2d Sess., June 3, 1960, where a motion to discharge the Committee on Rules received the requisite number of signatures.

§ 2.2 The House agreed to a motion to discharge the Committee on Rules from further consideration of a resolution making in order a "home rule" bill pending before the Committee on the District of Columbia. 111 CONG. REC. 25180-85, 89th Cong. 1st Sess., Sept. 27, 1965.

§ 2.3 A motion to discharge the Committee on the Judiciary from further consideration of a joint resolution received the requisite number of signatures. 116 CONG. REC. 24999, 91st Cong. 2d Sess., July 20, 1970, discharge

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motion on a constitutional amendment relative to equal rights for men and women.

§ 2.4 The House agreed to a motion to discharge the Committee on the Judiciary from further consideration of a joint resolution amending the Constitution to prevent the denial of equal rights on the basis of sex. 116 CONG. REC. 27999, 28004, 91st Cong. 2d Sess., Aug. 10, 1970 [H.J. Res. 264]. In the 96th Congress, the House agreed to a motion to discharge the Committee on the Judiciary from the further consideration of a joint resolution proposing an amendment to the U.S. Constitution to prohibit compelling the attendance of a student in a public school other than the public school nearest the residence of such student. 125 CONG. REC. p. ....., 95th Cong 1st Sess., July 24, 1979 [H.J. Res. 74].

§ 2.5 The House agreed to a motion to discharge the Committee on the Judiciary from further consideration of a joint resolution proposing an amendment to the Constitution with respect to the offering of nondenominational prayer in public buildings. 117 CONG. REC. 39885-89, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191].

§ 3. — Calling Up; Debate

§ 3.1 A Member who calls up a motion to discharge must qualify as having signed the discharge petition. 111 CONG. REC. 25180-85, 89th Cong. 1st Sess., Sept. 27, 1965; 116 CONG. REC. 27999, 28004, 91st Cong. 2d Sess., Aug. 10, 1970; 117 CONG. REC. 39885-89, 92d Cong. 1st Sess., Nov. 8, 1971.

§ 3.2 Twenty minutes of debate are permitted on a motion to discharge a committee, and the Member making the motion and a Member opposed to the motion are each recognized for 10 minutes. 117 CONG. REC. 39885-89, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191, proposing an amendment to the Constitution relative to nondenominational prayer in public buildings].

§ 3.3 A Member qualifying to offer a motion to discharge a committee is recognized for 10 minutes and has the right to open and close debate, and a Member opposed, normally the chairman of the committee sought to be discharged, is recognized for 10 minutes. 125 CONG. REC. p. ....., 96th Cong 1st Sess., July 24, 1979 [H.J. Res. 74]. Compare 111 CONG. REC. 25180-85, 89th Cong. 1st Sess., Sept. 27, 1965, where the Speaker recognized the Chairman of the Committee on the District of Columbia for 10 minutes in opposition to a motion to discharge the Committee on Rules from further consideration of a resolution making in order a "home rule" bill for the District of Columbia, pending before the Committee on the District of Columbia.

§ 3.4 In response to a parliamentary inquiry, the Speaker indicated that: (1) there would be 20 minutes of debate on a motion to discharge a committee from consideration of a joint resolution; and (2) the chairman of that committee would be recognized for 10 minutes if opposed to the motion. 116 CONG. REC. 27999, 28004, 91st Cong. 2d Sess., Aug. 10, 1970 [H.J. Res. 264].

§ 3.5 A Member recognized to control half of the 20 minutes' debate on a motion to discharge may yield any part of it. 106 CONG. REC. 12691, 12693, 12720-25, 86th Cong. 2d Sess., June 15, 1960 [H.R. 9883].

§ 4. — Effect of Agreement to Motion

§ 4.1 Following the adoption of a motion to discharge a committee from consideration of a bill or resolution, it is immediately in order to move pursuant to Rule XXVII clause 4 that the House proceed to the consideration of the bill or resolution [under the general rules of

the House]. 125 CONG. REC. p. ....., 96th Cong 1st Sess., July 24, 1979 [H.J. Res. 74]. Such motion is privileged, if made by a Member who signed the discharge petition, and is decided without debate. 116 CONG. REC. 27999, 28004, 91st Cong. 2d Sess., Aug. 10, 1980 [H.J. Res. 264]; 117 CONG. REC. 39885-89, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191].

§ 4.2 Following agreement to a motion to discharge the Committee on Rules from further consideration of a resolution providing a special order of business, the question immediately occurs, without debate or other intervening motion, on agreeing to the resolution. 111 CONG. REC. 25180-85, 89th Cong. 1st Sess., Sept. 27, 1965.

§ 4.3 Where a measure not requiring consideration in Committee of the Whole is before the House pursuant to a motion to discharge, the Member who made the motion for its immediate consideration is recognized in the House under the hour rule. 116 CONG. REC. 27999, 28004, 91st Cong. 2d Sess., Aug. 10, 1970 [H.J. Res. 264, amending the Constitution relative to equal rights for men and women].

§ 4.4 When a joint resolution proposing an amendment to the Constitution is considered in the House and not the Committee of the Whole pursuant to a motion to discharge under Rule XXVII clause 4, the proponent of the resolution is recognized to control one hour of debate. 125 CONG. REC. p. ....., 96th Cong 1st Sess., July 24, 1979 [H.J. Res. 74].

§ 5. Procedures for Discharging Senate Measure From House Committee

§ 5.1 The House, responding to a request of the Senate, may by unanimous consent discharge one of its standing committees from consideration of a Senate bill and direct the Clerk to return the bill to the Senate. 115 CONG. REC. 19095, 91st Cong. 1st Sess., July 10, 1969.

§ 5.2 By unanimous consent, the Committee on Foreign Affairs was discharged from consideration of a Senate bill and it was returned to the Senate. 113 CONG. REC. 17736, 90th Cong. 1st Sess., June 28, 1967.

§ 5.3 By unanimous consent, the Committee on Interior and Insular Affairs was discharged from further consideration of a Senate bill and the bill, pursuant to a request of the Senate, was returned to that body. 115 CONG. REC. 25348, 91st Cong. 1st Sess., Sept. 15, 1969.

§ 5.4 The House adopted a resolution reported from the Committee on Rules, discharging the Committee on Interstate and Foreign Commerce from consideration of a Senate joint resolution, although an identical House joint resolution had been ordered reported by that committee in the absence of a quorum. 120 CONG. REC. 2488 et seq., 93d Cong. 2d Sess., Feb. 7, 1974 [H. Res. 835, providing for consideration of S.J. Res. 185]. *Note:* The Interstate and Foreign Commerce Committee had reported an identical House joint resolution (H.J. Res. 893) without a quorum on Feb. 6, but because the Rules Committee made in order the Senate joint resolution, no point of order was in order under Rule XI clause 27(e).

§ 5.5 By unanimous consent, the Committee on the Judiciary was discharged from consideration of a Senate bill, and the provisions of a similar House bill passed the previous day (but not messaged to the Senate) were substituted therefor. 121 CONG. REC. 38263, 94th Cong. 1st Sess., Dec. 3, 1975 [S. 233]. *Note:* The House bill was passed on Dec. 2, 1975. The usual procedure where there is a similar Senate bill is to immediately discharge the House committee by unanimous consent, and then by motion to substitute the provisions of the House-passed bill. In this instance, there was a single unanimous-consent request to dis-

charge the committee and amend the bill. Since the House bill had not been messaged to the Senate, it was laid on the table by unanimous consent.

§ 5.6 A motion to discharge a House committee from further consideration of a Senate bill and a subsequent motion to amend the Senate bill in the House with the text of a House-passed bill, may be made in order pursuant to a special rule permitting consideration of the Senate bill in the House. 122 CONG. REC. 27205, 94th Cong. 2d Sess., Aug. 23, 1976 [S. 3149, similar to H.R. 14032, the Toxic Substances Control Act, called up pursuant to H. Res. 1458].

§ 6. Procedures for Discharging Vetoed Bills, Resolutions of Inquiry, and Resolutions of Disapproval

§ 6.1 A motion to discharge a committee from the consideration of a vetoed bill presents a question of privilege. 111 CONG. REC. 22958, 89th Cong. 1st Sess., Sept. 7, 1965 [H.R. 9439].

§ 6.2 A motion to discharge a committee from consideration of a resolution of inquiry is privileged after the resolution has been pending before the committee for seven legislative days. 117 CONG. REC. 28863, 28869, 92d Cong. 1st Sess., Aug. 2, 1971 [H. Res. 539], where the Committee on Education and Labor was discharged from consideration of a resolution of inquiry.

§ 6.3 A motion to discharge a committee from consideration of a vetoed bill is subject to the motion to table. 111 CONG. REC. 22958, 89th Cong. 1st Sess., Sept. 7, 1965, where a privileged motion to discharge a committee from further consideration of a vetoed bill was laid on the table.

§ 6.4 A motion to discharge a committee from consideration of a resolution of inquiry is not in order where the resolution is not privileged (under clause 5 Rule XXII) because it calls upon the head of an executive department to furnish the House with a statement of opinion and not merely factual information. 117 CONG. REC. 23810, 92d Cong. 1st Sess., July 7, 1971 [H. Res. 491].

§ 6.5 The discharge from committee of a resolution of disapproval of an executive branch reorganization plan is governed by statute. It provides that if the committee of referral has not reported such resolution or an identical resolution at the end of 45 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged therefrom, and that such resolution be placed on the appropriate calendar. 5 USC § 911.

§ 6.6 Pursuant to clause 3 Rule XXVII, 40 minutes of debate, 20 minutes in favor and 20 minutes in opposition, are permitted on any proposition on which the previous question has been ordered without debate; and where the previous question was ordered without debate on a resolution of inquiry which was before the House pursuant to a motion to discharge, the Speaker, upon demand of a Member who had opposed the motion, recognized that Member and the proponent of the motion to discharge each for 20 minutes of debate. 117 CONG. REC. 28863, 28869, 92d Cong. 1st Sess., Aug. 2, 1971 [H. Res. 539].

§ 6.7 *Note:* When a committee to which has been referred a privileged resolution of inquiry has not reported that resolution within seven legislative days, a motion to discharge that committee from further consideration of that resolution is privileged and not debatable. See 121 CONG. REC. 30748, 94th Cong. 1st Sess., Sept. 29, 1975 [H. Res. 718, a resolution of inquiry, directing the Secretary of Health, Education, and Welfare to furnish documents

relating to public school systems to the House].

§ 6.8 Under the Petroleum Allocation Act [section 551(f) of Pub. L. No. 94-163], a motion to discharge the Committee on Interstate and Foreign Commerce from consideration of a resolution disapproving an "energy action" transmitted by the President pursuant to that section, is privileged after five calendar days following referral of such a resolution and within 15 days of receipt by the House of the energy action. 122 CONG. REC. 10794-802, 94th Cong. 2d Sess., Apr. 13, 1976 [H. Res. 1135, disapproving energy action No. 1]; and 122 CONG. REC. 15772-77, 94th Cong. 2d Sess., May 27, 1976 [H. Res. 1205, disapproving energy action No. 2].

§ 6.9 A Member must qualify as favoring a resolution disapproving a Presidential "energy action" in order to move to discharge the committee after five calendar days, and that Member and a Member opposed to the disapproval resolution each control 30 minutes of debate on the motion to discharge. 122 CONG. REC. 10794-802, 94th Cong. 2d Sess., Apr. 13, 1976 [H. Res. 1135, disapproving energy action No. 1]; and 122 CONG. REC. 15772-77, 94th Cong. 2d Sess., May 27, 1976 [H. Res. 1205, disapproving energy action No. 2].

Chapter 19

The Committee of the Whole

A. GENERALLY

§ 1. In General

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§ 4. — Rulings as to Amendments

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§ 14. House Action on Committee Recommendations

A. GENERALLY

§ 1. In General

§ 1.1 *Note:* There are, in effect, two Committees of the Whole: (1) the Committee of the Whole House, considering business of the Private Calendar, and (2) the Committee of the Whole House on the State of the Union, considering business on the Union Calendar—that is, public bills. The two Committees of the Whole follow, insofar as it is applicable, the procedure of the House, and there is little difference in the work of the two committees except in the character of bills considered.

§ 1.2 The rules provide for the consideration in the Committee of the Whole of motions or propositions involving a tax or charge on the people, proceedings or bills involving appropriations, or authorizing payments out of appropriations already made. Provision is also made for the consideration by the Committee of Senate amendments, with revenue or appropriation features, to House bills. See clause 1 Rule XX and clause 3 Rule XXIII.

§ 1.3 The position of the mace signifies whether the House is in session or whether it has resolved itself into the Committee of the Whole. When the mace is in position at the Speaker's right the House is in regular session. When the Members begin deliberations in the Committee of the Whole, the mace is placed on the lower pedestal next to the desk of the Sergeant at Arms. 112 CONG. REC. 15403, 89th Cong. 2d Sess., July 13, 1966.

§ 1.4 The Speaker does not anticipate parliamentary situations which might arise in Committee of the Whole. 119 CONG. REC. 22336, 22337, 93d Cong. 1st Sess., June 29, 1973.

§ 2. Speaker's Appointment of Chairman

§ 2.1 *Note:* The Chairman of the Committee of the Whole is appointed by the Speaker. The Chairman decides questions of order arising in the committee independently of the Speaker. He recognizes for debate, but like the Speaker is forbidden to recognize for requests to suspend the rule of admission to the floor. For a statement of a Chairman of the Committee of the Whole concerning decorum on the floor during debate on a bill over which he was to preside, see 115 CONG. REC. 30806, 91st Cong. 1st Sess., Oct. 21, 1969.

§ 2.2 A female Chairman of the Committee of the Whole should be addressed as "Madam Chairman." 118 CONG. REC. 30592, 30594, 93d Cong. 1st Sess., Sept. 20, 1973.

§ 2.3 Where the Member named by the Speaker to act as Chairman of the Committee of the Whole is not present at the time the House resolves into Committee, the Speaker may ask another Member to assume the Chair as Chairman pro tempore pending the arrival of the Chairman. 113 CONG. REC. 29277, 90th Cong. 1st Sess., Oct. 18, 1967.

§ 3. The Chairman's Role; Rulings

§ 3.1 Appeals from a decision of the Chairman of the Committee of the Whole have been rare. See 114 CONG. REC. 11281-88, 90th Cong. 2d Sess., May 1, 1968.

§ 3.2 The Chairman does not pass on questions of constitutionality. 112 CONG. REC. 25677, 89th Cong. 2d Sess., Oct. 7, 1966.

§ 3.3 The question of the constitutionality of proposed legislation is a matter for the House, and not the Chairman, to decide. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess., May 10, 1973 [H.R. 7447].

§ 3.4 It is the duty of the Chairman to determine whether the provisions in a pending bill conform to the rules of the House, but the Chair will not construe the constitutional validity of those provisions. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess., May 10, 1973 [H.R. 7447].

§ 3.5 It is not within the province of the Chairman to interpret the consistency of a provision in a legislative bill with the provisions of existing law. 119 CONG. REC. 18502, 18503, 93d Cong. 1st Sess., June 7, 1973 [H.R. 7645].

§ 3.6 The Chairman follows the precedents of the House in making decisions on points of order. 105 CONG. REC. 14521, 86th Cong. 1st Sess., July 28, 1959 [H.R. 8385].

§ 3.7 The Chairman does not rule on hypothetical questions. 107 CONG. REC. 4780, 87th Cong. 1st Sess., Mar. 24, 1961.

§ 3.8 The Chairman does not respond to hypothetical questions even though raised under the guise of a parliamentary inquiry. 111 CONG. REC. 6114, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362].

§ 3.9 The Chairman will not entertain as a parliamentary inquiry a hypothetical question regarding the effect which the defeat of a pending amendment would have on the propriety of another amendment which has not been offered. 117 CONG. REC. 43377, 92d Cong. 1st Sess., Nov. 30, 1971 [H.R. 11060].

§ 3.10 The Chairman does not anticipate the action of the Committee of the Whole; thus, in response to a parliamentary inquiry, the Chairman stated that he could not anticipate whether the Committee would reject or agree to an amendment in the nature of a substitute. 110 CONG. REC. 3654, 88th Cong. 2d Sess., Feb. 26, 1964 [H.R. 9022].

§ 3.11 The Chairman of the Committee of the Whole does not rule on procedural questions that may be directed to the Speaker when a bill is reported back to the House. 115 CONG. REC. 29219, 91st Cong. 1st Sess., Oct. 8, 1969.

§ 3.12 The Chairman of the Committee of the Whole does not anticipate or suggest what parliamentary decisions may be rendered in the House by the Speaker. 112 CONG. REC. 10895, 89th Cong. 2d Sess., May 18, 1966.

§ 3.13 Whether the House can rescind a time limitation imposed by the Committee of the Whole is a matter for the Speaker, and not the Chairman, to determine. 119 CONG. REC. 41731, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 3.14 The Chairman advised a Member that how the managers of a bill intended to conduct the handling thereof was beyond the knowledge of the Chair. 111 CONG. REC. 25418, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644].

§ 3.15 The Chairman does not construe the result of a vote. 107 CONG. REC. 19206, 87th Cong. 1st Sess., Sept. 13, 1961.

§ 3.16 The Chair does not interpret the rules or procedures of the Senate. 107 CONG. REC. 9626, 87th Cong. 1st Sess., June 6, 1961.

§ 3.17 Where an amendment recommended by a committee is offered, it is the responsibility of the Member offering the amendment—and not of the Chairman of the Committee of the Whole—to assure that the amendment properly reflects the committee's recommendation. 122 CONG. REC. 34137, 94th Cong. 2d Sess., Sept. 30, 1976 [S. 3521].

§ 4. — Rulings as to Amendments

§ 4.1 The Chairman does not construe the effect of an amendment. 112 CONG. REC. 8968, 89th Cong. 2d Sess., Apr. 26, 1966 [H.R. 14596].

§ 4.2 The Chairman does not rule on the question of the constitutionality of proposed

amendments. 111 CONG. REC. 21016, 89th Cong. 1st Sess., Aug. 19, 1965 [H.R. 9811]; 124 CONG. REC. 23731, 95th Cong. 2d Sess., Aug. 1, 1978 [H.R. 12514].

§ 4.3 The Chairman does not rule on the legislative effect of an amendment. 109 CONG. REC. 1547, 88th Cong. 1st Sess., Jan. 31, 1963 [H. Res. 64].

§ 4.4 The interpretation of an amendment is not a matter to be passed on by the Chairman. 112 CONG. REC. 26205, 89th Cong. 2d Sess., Oct. 12, 1966 [H.R. 61]. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 6, 1979 [H.R. 4473].

§ 4.5 The Chairman does not rule on the consistency of amendments. 107 CONG. REC. 16060, 87th Cong. 1st Sess., Aug. 16, 1961 [H.R. 8400]; 121 CONG. REC. 26224, 26225, 94th Cong. 1st Sess., July 31, 1975 [H.R. 7014, Energy Conservation and Oil Policy Act of 1975]. 122 CONG. REC. 29236, 94th Cong. 2d Sess., Sept. 8, 1976 [H.R. 10498, the Clean Air Act Amendments of 1976].

§ 4.6 The Chairman does not rule on the effect of amendments on other provisions in a bill. 113 CONG. REC. 17755, 90th Cong. 1st Sess., June 28, 1967 [H.R. 10340]. 122 CONG. REC. 29236, 94th Cong. 2d Sess., Sept. 8, 1976 [H.R. 10498].

§ 4.7 The Chairman does not rule on the consistency of a proposed amendment with another amendment already adopted. 119 CONG. REC. 25828, 93d Cong. 1st Sess., July 25, 1973 [H.R. 8480]; 119 CONG. REC. 41688, 41689, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450].

§ 4.8 The Chairman will not rule out an amendment as being inconsistent with an amendment previously adopted, as the consistency of amendments is a question for the Committee and not the Chairman to determine. 121 CONG. REC. 34552, 34553, 94th Cong. 1st Sess., Oct. 31, 1975 [H.R. 10024, Depository Institutions Amendments of 1975].

§ 4.9 The Chairman may decline to rule, prior to the offering of an amendment, whether it would be precluded as changing an amendment already agreed to. 120 CONG. REC. 12508, 93d Cong. 2d Sess., May 1, 1974 [H.R. 12993]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979.

§ 4.10 A parliamentary inquiry as to the effect of possible rejection by the House of an amendment reported from the Committee of the Whole upon language remaining in the bill is properly addressed to the Speaker and not to the Chairman of the Committee of the Whole. 120 CONG. REC. 2078, 93d Cong. 2d Sess., Feb. 5, 1974 [H.R. 11221, amending the Federal Deposit Insurance Act].

§ 4.11 The Chair declined to respond to a parliamentary inquiry as to the similarity of an amendment to another amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 14, 1979 [H.R. 4388].

§ 5. — The Chairman's Vote

§ 5.1 The Chairman may vote to make or break a tie. 111 CONG. REC. 24635, 89th Cong. 1st Sess., Sept. 21, 1965, where the Chairman of the Committee of the Whole voted on a teller vote to make a tie and thus defeat an amendment.

§ 5.2 The Chairman has voted in the negative, on a division vote, to break a tie. 106 CONG. REC. 11301, 86th Cong. 2d Sess., May 26, 1960 [H.R. 10128]. See also 110 CONG. REC. 3648, 88th Cong. 2d Sess., Feb. 26, 1964.

§ 5.3 The Chairman has voted in the affirmative, on a division vote, to break a tie. 107 CONG. REC. 3511, 87th Cong. 1st Sess., Mar. 8,

1961, where the Chair voted, on a division vote, to break a tie on a motion to terminate debate. See also 112 CONG. REC. 18134, 89th Cong. 2d Sess., Aug. 3, 1966, where the Chair voted yea on a teller vote to break a tie and thus agree to an amendment.

§ 5.4 The Chairman of the Committee of the Whole has voted to make a tie and thus defeat an amendment. 112 CONG. REC. 13366, 89th Cong. 2d Sess.. June 16, 1966 [division vote during consideration of H.R. 14025]; 112 CONG. REC. 17760, 89th Cong. 2d Sess., Aug. 1, 1966 [teller vote during consideration of H.R. 14765, Civil Rights Act of 1966].

§ 5.5 The Chairman sometimes casts his vote on propositions before the Committee even though his vote will neither make nor break a tie. 113 CONG. REC. 32688-90, 90th Cong. 1st Sess., Nov. 15, 1967, where the Chairman of the Committee of the Whole voted on division and teller votes even though his votes were not decisive.

B. PROCEDURE

§ 6. Resolving Into Committee of the Whole

§ 6.1 Where the House adopts a resolution providing for the immediate consideration of a measure in Committee of the Whole, the House resolves itself into Committee without a motion being made from the floor. 116 CONG. REC. 7690, 91st Cong. 2d Sess., Mar. 17, 1970 [H. Res. 874]; 118 CONG. REC. 28829, 28834, 92d Cong. 2d Sess., Aug. 17, 1972 [H. Res. 1090]; 120 CONG. REC. 2492, 93d Cong. 2d Sess., Feb. 7, 1974 [H. Res. 835]. See also 121 CONG. REC. 23964, 23983, 94th Cong. 1st Sess., July 22, 1975, which indicates that where the House adopts a special order providing that it shall immediately resolve itself into the Committee of the Whole, that action is automatic and no motion is required [H. Res. 613]. See also 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 10, 1979 [H.Res. 212, H. Res. 266], where, pursuant to a special rule previously adopted, the House automatically resolved into the Committee of the Whole for the simultaneous consideration of two simple resolutions.

§ 6.2 The recognition by the Speaker of a designated Member to move that the House resolve into the Committee of the Whole to consider a particular bill may be provided for by resolution. 111 CONG. REC. 25185-87, 89th Cong. 1st Sess., Sept. 27, 1965 [H. Res. 515].

§ 6.3 Where two bills remain undisposed of by the Committee of the Whole, the Speaker, by recognizing for motions to resolve into the Committee for further consideration of those bills, determines in his discretion the order of consideration of that unfinished business, subject to the will of the House as manifested by the vote on the motion. 117 CONG. REC. 38693, 92d Cong. 1st Sess., Nov. 2, 1971.

§ 6.4 A motion that the House resolve itself into a Committee of the Whole for the consideration of a resolution disapproving a reorganization plan is highly privileged and may be called up by any Member. 107 CONG. REC. 9775, 87th Cong. 1st Sess., June 8, 1961, where the House refused to agree to a motion to resolve itself into a Committee of the Whole for consideration of a resolution disapproving a reorganization plan.

§ 6.5 A Member may withdraw his motion that the House resolve itself into the Committee of the Whole at any time before the motion is acted upon. 117 CONG. REC. 6847, 92d Cong. 1st Sess., Mar. 17, 1971.

§ 6.6 The chairman of a committee, at the request of the Speaker, withdrew his motion to go into Committee of the Whole to consider a bill reported by his committee, in order that

the House might consider emergency legislation reported by another committee. 116 CONG. REC. 40689-91, 91st Cong. 2d Sess., Dec. 9, 1970 [H. Res. 1300, providing for consideration of H.J. Res. 1413, temporary prohibition of strike or lockout in railroad labor management dispute].

§ 6.7 Although a motion that the House resolve itself into the Committee of the Whole is not ordinarily subject to the motion to postpone indefinitely, the motion to postpone may be offered in such a case pursuant to the provisions of a statute, enacted under the rulemaking power of the House (and of the Senate), which allows such a motion in the consideration of a resolution disapproving a certain executive action. 123 CONG. REC. 7021, 95th Cong. 1st Sess., Mar. 10, 1977 [H. Con. Res. 80]. In this instance, the House adopted a motion to postpone indefinitely a motion to resolve into the Committee of the Whole for the consideration of a resolution, reported adversely by the Committee on Ways and Means, disapproving a Presidential etermination denying import relief to the U.S. honey industry, pursuant to sections 152(d)(1) and (d)(3) of the Trade Act of 1974 (Pub. L. No. 93-618, 88 Stat. 1980). Like a number of other statutes providing for the consideration of legislative veto propositions, the Trade Act states in part: "Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate." Since resolutions of disapproval under the Trade Act, as well as most other disapproval resolutions, require consideration in the Committee of the Whole, the only possible interpretation of that provision requires the motion to postpone to be applicable to the motion to resolve into the Committee of the Whole. This is the first instance where the motion to postpone indefinitely was applied to the motion to go into the Committee under one of the acts providing legislative disapproval procedures. The adoption of the motion represented final adverse disposition of the resolution disapproving the Presidential determination in question. See also 123 CONG. REC. 26528, 95th Cong. 1st Sess., Aug. 3, 1977, where under the same statute the House agreed to a motion to postpone indefinitely the consideration of a resolution (H. Res. 653) disapproving continuation of the President's authority to waive certain emigration requirements relative to Romania.

§ 6.8 The Committee of the Whole having risen and reported to the House that it had come to no resolution on the bill under consideration therein, the Speaker stated in response to parliamentary inquiries that the bill remained pending in the Committee of the Whole and that its consideration could be resumed when the manager of the bill moved to resolve into the Committee of the Whole for its further consideration, at a time to be determined by the leadership and the House when the House was in session. 123 CONG. REC. 36919, 95th Cong. 1st Sess., Nov. 3, 1977 [H.R. 9179].

§ 7. Quorum of the Committee; Procedure

§ 7.1 Where there is a failure of a quorum in the Committee of the Whole and the roll is called, it is a quorum of the Committee (100 Members), and not of the House, which must appear under clause 2 Rule XXIII (providing for a roll call in the absence of a quorum). 112 CONG. REC. 26247, 89th Cong. 2d Sess., Oct. 12, 1966 [H.R. 12047]. Where the Chair has announced the absence of a quorum in Committee of the Whole, no further business may be conducted until a quorum is established or the Committee rises; and it is not in order to reread a pending amendment or to entertain statements as to the effect of a pending amendment. 125 CONG. REC. p. ....., 95th Cong. 1st Sess., Sept. 6, 1979 [H.R. 4473].

§ 7.2 Under the revision of Rule XXIII clause 2 adopted in the 93d Congress, the Chairman may vacate proceedings under a quorum call in the Committee of the Whole after a quorum of the Committee appears. (See H. Res. 993, 93d Cong., Apr. 9, 1974.)

§ 7.3 The Speaker does not conduct any business, even the reception of a message, while he occupies the Chair to receive the report of the Chairman of the Committee of the Whole pursuant to clause 2 Rule XXIII. 113 CONG. REC. 8600, 90th Cong. 1st Sess., Apr. 6, 1967. See also 121 CONG. REC. 14468, 14481, 94th Cong. 1st Sess., May 15, 1975, which states that no business, including the reception of a message, can be transacted in the House when the Committee of the Whole rises to report the lack of a quorum; the Committee must resume its sitting and then rise informally for the House to receive a message.

§ 7.4 The 96th Congress adopted provisions permitting the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees as in previous practice, and enabling the Chairman to reduce to five minutes the period for a recorded vote immediately following a regular quorum call. 125 CONG. REC. p. ....., 95th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5].

§ 7.5 Under the former practice, the Speaker received the report of the Chairman of the Committee of the Whole that a quorum of the Committee had appeared on a call of the roll under Rule XXIII clause 2, and he then directed the Committee to resume its sitting. 112 CONG. REC. 26247, 89th Cong. 2d Sess., Oct. 12, 1966 [H.R. 12047]. Today, the Committee continues its business following an appearance of a quorum and the Speaker need not be notified. See § 7.4, supra.

§ 7.6 In Committee of the Whole a quorum is not required on a motion to rise. 118 CONG. REC. 19353, 92d Cong. 2d Sess., May 31, 1972 [H.R. 13918]. See also Rule XV clause 6(c). See 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 6, 1979 [H.R. 3875].

§ 7.7 *Note:* A point of order that a quorum is not present, followed by agreement to a privileged motion that the Committee of the Whole rise, does not constitute "intervening business" that would preclude a demand for tellers on the pending question (decided by division) immediately following the resitting of the Committee of the Whole.

§ 7.8 The Speaker interpreted new clause 2(c) of Rule XXIII—which authorizes the Chairman of the Committee of the Whole, in his discretion, to vacate a quorum call at any time a quorum of the Committee appears—to permit the Chairman to announce in advance (at the time the absence of a quorum is ascertained) that he will vacate proceedings when a quorum appears, and to convert to a regular quorum call if a quorum does not respond at any time during the call. 120 CONG. REC. 14148, 14149, 93d Cong. 2d Sess., May 13, 1974.

§ 7.9 The Chairman of the Committee of the Whole, having announced his intention at the beginning of a quorum call pursuant to Rule XXIII clause 2 to vacate proceedings when a quorum appeared, may exercise that discretion, or may convert to a regular quorum call, at any time during the conduct of the call—which extends for a minimum of 15 minutes. 120 CONG. REC. 23666, 23673, 93d Cong. 2d Sess., July 17, 1974 [H.R. 11500]. 121 CONG. REC. 32579, 32580, 94th Cong. 1st Sess., Oct. 9, 1975 [H.R. 200].

§ 7.10 As Rule XV clause 5, incorporated by reference by Rule XXIII clause 2, permits Members to have a minimum of 15 minutes to be recorded on a quorum call in Committee of the Whole being conducted by electronic device, the Chairman need not convert to a regular quorum call precisely at the expiration of 15 minutes if 100 Members have not re-

sponded on a "notice" quorum call, but may continue to exercise his discretion to vacate proceedings at any time during the conduct of the call pursuant to Rule XXIII clause 2. 120 CONG. REC. 23666, 23673, 93d Cong. 2d Sess., July 17, 1974 [H.R. 11500]; 121 CONG. REC. 32579, 32580, 94th Cong. 1st Sess., Oct. 9, 1975 [H.R. 200].

§ 7.11 Under Rule XXIII clause 2, the Chairman of the Committee of the Whole may, at his discretion, vacate proceedings under the call when a quorum of the Committee appears, and the prior establishment of a quorum of the House on that day is not a condition precedent to the utilization of that procedure. 121 CONG. REC. 29824, 29825, 94th Cong. 1st Sess., Sept. 23, 1975 [H.R. 7014].

§ 7.12 The Chairman of the Committee of the Whole exercised his discretionary authority under Rule XXIII clause 2, and vacated a quorum call when 100 Members had responded. 120 CONG. REC. 14990, 93d Cong. 2d Sess., May 16, 1974 [H.R. 13973].

§ 7.13 When further proceedings under a quorum call in Committee of the Whole have been vacated pursuant to Rule XXIII clause 2, the Committee resumes its business and the Record and Journal do not record the names of absentees. 120 CONG. REC. 14990, 93d Cong. 2d Sess., May 16, 1974 [H.R. 13973].

§ 8. Rising of the Committee

§ 8.1 When the Committee of the Whole rises—that is, concludes or suspends its proceedings—it may do so either formally or informally. When it rises informally, it rises at the direction of the Chairman, without a formal motion from the floor. Thus the Committee may rise informally to receive a message from the President. 110 CONG. REC. 18262, 88th Cong. 2d Sess., Aug. 6, 1964; 113 CONG. REC. 8585, 90th Cong. 1st Sess., Apr. 6, 1967.

§ 8.2 The Committee of the Whole may rise, informally, immediately after having resolved into the Committee following a quorum call, to receive a message from the President (115 CONG. REC. 9705, 91st Cong. 1st Sess., Apr. 21, 1969) or to enable the Speaker to sign and lay before the House an enrolled bill. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 28, 1980.

§ 8.3 When the House has limited general debate to a time certain and provided for the Committee of the Whole to rise at the conclusion of that time, the Committee then rises without a motion or vote. 109 CONG. REC. 6044, 6073, 88th Cong. 1st Sess., Apr. 9, 1963 [H.R. 5517].

§ 8.4 Where the House postpones further proceedings on a bill to a time certain on that day and then resolves into the Committee of the Whole to consider other business, the Committee rises automatically at the time set for consideration of the unfinished business in the House. 120 CONG. REC. 30077, 93d Cong. 2d Sess., Aug. 22, 1974 [H.R. 12628].

§ 8.5 Where a special rule from the Committee on Rules provides that at the conclusion of general debate in the Committee of the Whole on the resolution made in order thereby, the Committee shall rise and report the resolution to the House, the resolution need not be read when the time for general debate expires and the Committee rises pursuant to the rule and reports to the House. 121 CONG. REC. 23964, 23983, 94th Cong. 1st Sess., July 22, 1975 [H. Res. 613 for consideration of H. Res. 605].

§ 8.6 Under a special rule providing that at the conclusion of general debate in the Committee of the Whole on a resolution, the Committee shall rise and report it back to the House, the resolution may be read for the information of Members when time for general debate expires and the Committee immediately rises without motion. 121 CONG. REC. 25881, 94th Cong. 1st Sess., July 30, 1975 [H. Res.

651, providing for consideration of H. Res. 641].

§ 9. — Motions to Rise

§ 9.1 The Committee of the Whole may rise pursuant to a motion from the floor in which a Member states "Mr. Chairman, I move that the Committee do now rise." 116 CONG. REC. 11654, 91st Cong. 2d Sess., Apr. 14, 1970, where the Committee of the Whole rose, on motion, so that the Speaker could sign and lay before the House an enrolled bill.

§ 9.2 A motion that the Committee rise and that it resume its sitting on a day certain is not in order in the Committee of the Whole. 113 CONG. REC. 14121, 90th Cong. 1st Sess., May 25, 1967 [S. 1432].

§ 9.3 The motion that the Committee of the Whole rise is privileged. 116 CONG. REC. 25628, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515], where the Committee of the Whole rejected, on a teller vote, a privileged motion that the Committee rise.

§ 9.4 A motion that the Committee of the Whole rise is of high privilege, and may be offered by a Member who holds the floor by virtue of having offered an amendment. 113 CONG. REC. 32694, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388]. A motion to rise being of the highest priority in the Committee of the Whole, taking precedence over a pending amendment, the Chair indicated that he would entertain parliamentary inquiries respecting the status of that motion but would not entertain any other question until a demand for a recorded vote on the motion to rise had been disposed of. 123 CONG. REC. 34714, 95th Cong. 1st Sess., Oct. 20, 1977 [H.R. 9375].

§ 9.5 A motion that the Committee rise is privileged during consideration of a bill under the five-minute rule and takes precedence over pending amendments. 116 CONG. REC. 13784, 91st Cong. 2d Sess., Apr. 30, 1970. *Note:* But the motion may not take a Member from the floor who has been recognized under the five-minute rule. Likewise, while the offering of an amendment under debate takes precedence over a motion that the Committee of the Whole rise and report a bill back to the House, once the Chair has put the question on the motion to rise and report back to the House it is too late to offer an amendment where no Member has sought recognition for that purpose before the question was put. 123 CONG. REC. 18577, 18578, 95th Cong. 1st Sess., June 13, 1977 [H.R. 7556].

§ 9.6 A motion that the Committee of the Whole do now rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out. 113 CONG. REC. 13876, 90th Cong. 1st Sess., May 24, 1967 [H.R. 7819]; 124 CONG. REC. 14173, 95th Cong. 2d Sess., May 17, 1978 [H.R. 39].

§ 9.7 The motion that the Committee of the Whole rise is privileged and in order notwithstanding the announcement of an "informal agreement" among floor managers of a bill with respect to concluding consideration of the bill on that day. 117 CONG. REC. 38078, 92d Cong. 1st Sess., Oct. 28, 1971 [H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education].

§ 9.8 The motion that the Committee of the Whole rise is not debatable. 110 CONG. REC. 7298, 88th Cong. 2d Sess., Apr. 8, 1964 [H.R. 10222]; 121 CONG. REC. 11530, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 9.9 A Member recognized to offer and debate an amendment may, during his five minutes, move that the Committee rise. 113 CONG. REC. 32694, 90th Cong. 1st Sess., Nov. 15, 1967.

§ 9.10 In the Committee of the Whole a Member may not move to rise while another

has the floor. 110 CONG. REC. 5101, 88th Cong. 2d Sess., Mar. 12, 1964 [H.R. 8986, federal employees pay bill]. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Apr. 23, 1980.

§ 9.11 A Member may not, in time yielded to him for general debate, move that the Committee rise. 113 CONG. REC. 14121, 90th Cong. 1st Sess., May 25, 1967 [S. 1432, amending the Universal Military Training and Service Act]. *Note:* When the House has, by resolution, vested control of general debate in the Committee of the Whole in the chairman and ranking minority member of the committee reporting the bill, their control of general debate may not be abrogated by another Member moving to rise—unless they yield for that purpose.

§ 9.12 The motion that the Committee of the Whole rise may be made after the absence of a quorum has been ascertained and pending a vote on an amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 6, 1979 [H.R. 3875]. But the motion to rise comes too late when the Chair has announced the absence of a quorum, has directed the Clerk to call the roll, and the roll call has begun. 116 CONG. REC. 32229, 91st Cong. 2d Sess., Sept. 16, 1970 [H.R. 17654].

§ 9.13 A privileged motion that the Committee of the Whole rise may be withdrawn by unanimous consent. 117 CONG. REC. 38070, 92d Cong. 1st Sess., Oct. 28, 1971 [H.R. 248].

§ 9.14 The Committee of the Whole rose formally, on motion, to permit the House to consider a Senate concurrent resolution providing for an adjournment to a day certain. 120 CONG. REC. 21632, 93d Cong. 2d Sess., June 27, 1974 [S. Con. Res. 96].

§ 9.15 The preferential motion that the Committee rise is in order pending a demand for a record vote but prior to the time the Chairman begins the count to determine whether a sufficient number support the demand. 121 CONG. REC. 26947, 26948, 94th Cong. 1st Sess., Aug. 1, 1975 [H.R. 7014].

§ 9.16 The motion that the Committee of the Whole rise takes precedence over a demand for a recorded vote on a pending amendment and over a pending point of order of no quorum. 123 CONG. REC. 31718, 95th Cong. 1st Sess., Sept. 30, 1977 [H.R. 6951]. See also 123 CONG. REC. 30126, 95th Cong. 1st Sess., Sept. 21, 1977 [H.R. 6796], indicating that a motion that the Committee of the Whole rise takes precedence over a point of order of no quorum pending a demand for a recorded vote on an amendment, since a preferential motion to rise does not require a quorum for adoption. The request for the recorded vote is the pending business when the Committee resumes its sitting. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 28, 1980 [H.R. 4788].

§ 9.17 When the Committee of the Whole rises upon adoption of a simple motion to rise (and not pursuant to the provisions of a special order) at the conclusion of consideration of a bill for amendment, the bill remains the unfinished business for subsequent consideration in Committee of the Whole. 124 CONG. REC. 13504, 95th Cong. 2d Sess., May 12, 1978 [H.R. 12222]. If the motion that the Committee rise intervenes pending a request for a recorded vote on an amendment, that request remains the pending business upon resumption of consideration of the bill in Committee. 123 CONG. REC. 31718, 95th Cong. 1st Sess., Sept. 30, 1977 [H.R. 6951].

§ 9.18 Where a special order provides that the Committee of the Whole rise at the conclusion of the consideration of a bill for amendment, a motion that the Committee rise and report the bill to the House with such amendments as may have been adopted, before the bill has been completely read for amendment, is not in order, but a simple motion that the Committee rise is in order at any time. 125

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CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 5, 1979 [H.R. 5461].

§ 10. Motions Relating to Enacting Clauses

§ 10.1 A motion that the Committee of the Whole rise and report back to the House with the recommendation that the enacting clause be stricken is of high privilege. 111 CONG. REC. 16227, 89th Cong. 1st Sess., July 9, 1965 [H.R. 6400]; 115 CONG. REC. 30099, 91st Cong. 1st Sess., Oct. 15, 1969 [H.R. 14127].

§ 10.2 Under the rules a motion to strike out the enacting words of a bill, if carried, is equivalent to its rejection. See clause 7 Rule XXIII.

§ 10.3 The simple motion to strike out the enacting clause is not in order in the Committee of the Whole, not being in proper form. 106 CONG. REC. 10577, 86th Cong. 2d Sess., May 18, 1960 [H.R. 5]. A motion in the House to strike out the enacting clause is seldom used, and is not in order where the previous question has been ordered on the bill to final passage. 116 CONG. REC. 12092, 91st Cong. 2d Sess., Apr. 16, 1970 [H.R. 16311].

§ 10.4 The motion to strike out all after the enacting clause of a bill in the Committee of the Whole is not in proper form. The motion should provide that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out. 117 CONG. REC. 39321, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248] where the Chair refused to entertain as privileged a motion "that the Committee strike the enacting clause and report the bill back to the House" where the motion was not in writing and not in proper form.

§ 10.5 The motion that the Committee of the Whole rise and report a bill to the House with the recommendation that the enacting clause be stricken out (clause 7 Rule XXIII) takes precedence over a motion to limit debate under clause 6 Rule XXIII. 119 CONG. REC. 41711-14, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450, Energy Emergency Act].

§ 10.6 The House has agreed to a recommendation of the Committee of the Whole that the enacting clause of a Senate passed bill be stricken out. 118 CONG. REC. 33785, 92d Cong. 2d Sess., Oct. 4, 1972 [S. 1316].

§ 10.7 A preferential motion under Rule XXIII clause 7, that the Committee of the Whole rise with the recommendation that the resolving clause be stricken out is applicable to a simple resolution being considered under a special rule requiring consideration in Committee of the Whole under the five-minute rule, and may be offered while a motion to limit debate is pending. 120 CONG. REC. 34170, 34171, 93d Cong. 2d Sess., Oct. 7, 1974 [H. Res. 988, to reform the structure, jurisdiction, and procedures of House committees]. The motion that the Committee of the Whole rise with the recommendation that the resolving clause be stricken has also been applied to a concurrent resolution on the budget being considered in Committee of the Whole, although Rule XXIII clause 7 refers only to enacting clauses of bills. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 10, 1979 [H. Con. Res. 107].

§ 11. — When in Order

§ 11.1 A motion to strike out the enacting clause is in order only during the stage of amendment. 110 CONG. REC. 18606, 88th Cong. 2d Sess., Aug 7, 1964 [during consideration of H.R. 11377].

§ 11.2 After the stage of amendment is passed, the motion that the Committee of the Whole rise and report the bill with the recommendation that the enacting clause be stricken

is not in order. 110 CONG. REC. 18608, 88th Cong. 2d Sess., Aug. 7, 1964.

§ 11.3 A preferential motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken is not in order where the stage of amendment is passed; and the stage of amendment is passed in Committee of the Whole where a bill is being considered under a rule permitting only committee amendments and where no committee amendments are offered at the conclusion of general debate. 116 CONG. REC. 12092, 91st Cong. 2d Sess., Apr. 16, 1970 [H.R. 16311].

§ 11.4 The motion that the Committee of the Whole rise is privileged and may be offered during the pendency of a motion to limit debate or immediately upon the adoption of that motion. 120 CONG. REC. 34170, 34171, 93d Cong. 2d Sess., Oct. 7, 1974 [H. Res. 988, to reform the structure, jurisdiction, and procedures of House committees].

§ 11.5 Under Rule XXIII clause 7, a motion to strike out the enacting clause takes precedence over a motion to amend, and may be offered where another Member has been recognized to offer an amendment but prior to reading of the amendment by the Clerk. 121 CONG. REC. 11513, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 11.6 The motion that the Committee of the Whole rise with the recommendation that the enacting clause be stricken is in order after the Clerk has begun reading the bill for amendment under the five-minute rule. 124 CONG. REC. 14173, 95th Cong. 2d Sess., May 17, 1978 [H.R. 39]. However, that motion may not be offered while another Member has the floor under the five-minute rule in Committee of the Whole. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 13, 1979 [H.R. 2444].

§ 12. — Debate

§ 12.1 On a motion to strike out the enacting clause in the Committee of the Whole, only two five-minute speeches are permitted, and the Chair does not recognize for extensions of this time. 112 CONG. REC. 24442, 89th Cong. 2d Sess., Sept. 29, 1966 [H.R. 15111]. See also 121 CONG. REC. 41799, 41800, 94th Cong. 1st Sess., Dec. 18, 1975, which states that the Chairman recognizes only two Members to speak on the preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken. 122 CONG. REC. 30470, 94th Cong. 2d Sess., Sept. 15, 1976 [H.R. 10498].

§ 12.2 Debate on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken is limited to 10 minutes, five minutes in favor and five in opposition. 116 CONG. REC. 14445, 14456, 91st Cong. 2d Sess., May 6, 1970; 124 CONG. REC. 25248, 95th Cong. 2d Sess., Aug. 9, 1978. A Member offering the motion must qualify as being opposed to the bill when challenged. 123 CONG. REC. 19719, 95th Cong. 1st Sess., June 17, 1977 [H.R. 7555]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 14, 1979 [H.R. 4388].

§ 12.3 Despite a limitation of time for debate on an amendment and all amendments thereto to a time certain and the subsequent allocation of less than five minutes' time to each Member, a full 10 minutes of debate, five for and five against, may still be demanded on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken. 116 CONG. REC. 14445, 14451, 91st Cong. 2d Sess., May 6, 1970 [during consideration of H.R. 17123]. See also 121 CONG. REC. 20618, 20619, 94th Cong. 1st Sess., June 24, 1975 [H.R. 8122]. A Member who has been recognized under a time limitation on an amendment in the Committee of the

Whole may (1) offer a preferential motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken out and (2) be recognized for five minutes to debate the motion. 123 CONG. REC. 13413, 13414, 95th Cong. 1st Sess., May 4, 1977 [H.R. 6689].

§ 12.4 Debate on a motion to rise and report with the recommendation that the enacting clause be stricken is not limited to the motion but may go to the entire bill under consideration. 113 CONG. REC. 32679, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388]. See also 120 CONG. REC. 9853, 93d Cong. 2d Sess., Apr. 4, 1974, which states that debate on a preferential motion that the Committee of the Whole rise with the recommendation that the enacting clause be stricken out may go to any portion of the bill under consideration.

§ 12.5 On a motion that the Committee of the Whole rise and report back to the House with the recommendation that the enacting clause be stricken out, the entire bill is open to debate. 113 CONG. REC. 14145-48, 90th Cong. 1st Sess., May 25, 1967 [S. 1432]. *Note:* Where debate on an amendment and all amendments thereto has been fixed by a limitation of time for debate, and not a limitation to a time certain by the clock, the time used in debating the preferential motion to strike the enacting clause (five minutes for, five against) does not come out of the limitation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 24, 1979 [H.R. 3996].

§ 12.6 Debate on a preferential motion that the Committee rise with the recommendation that the enacting clause be stricken may go to any part of the bill and is not confined to the amendment pending when the motion is offered. 116 CONG. REC. 20440, 91st Cong. 2d Sess., June 18, 1970 [H.R. 17070, Postal Reform Act of 1970]. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 25, 1979 [H.R. 3966].

§ 12.7 A preferential motion that the Committee of the Whole rise with the recommendation that the enacting clause be stricken out is not debatable after all time for debate on the bill and all amendments thereto has expired. 111 CONG. REC. 16280, 89th Cong. 1st Sess., July 9, 1965 [H.R. 6400, Voting Rights Act of 1965]; 119 CONG. REC. 24961, 93d Cong. 1st Sess., July 19, 1973 [H.R. 8860, to amend and extend the Agricultural Act]; 123 CONG. REC. 17719, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10].

§ 12.8 Since the preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken applies to the entire bill, debate may be directed to any part of the bill (including a pending amendment) and need not be confined to the merits of the preferential motion. 121 CONG. REC. 19951, 94th Cong. 1st Sess., June 20, 1975 [H.R. 3474].

§ 12.9 Where all time for debate on a committee amendment in the nature of a substitute (being read as an original bill for amendment pursuant to a special rule) and all amendments thereto has been terminated, a preferential motion that the Committee rise with the recommendation that the enacting clause be stricken out is debatable for 10 minutes since the preferential motion applies to the bill and all debate on the bill has not been closed. 121 CONG. REC. 19971, 94th Cong. 1st Sess., June 20, 1975 [H.R. 3474].

§ 12.10 Where debate has been closed on all amendments to a bill, but not on the bill itself, a Member offering the preferential motion to strike the enacting clause is entitled to five minutes to debate that motion. 121 CONG. REC. 15465, 94th Cong. 1st Sess., May 20, 1975 [H.R. 6674].

§ 12.11 Since the preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken applies to the entire bill, debate may be direct-

ed to any part of the bill, and the motion may be used by a Member to secure five minutes to debate a pending amendment notwithstanding a limitation of time for debate on the pending amendment and all amendments thereto. 121 CONG. REC. 19951, 94th Cong. 1st Sess., June 20, 1975 [H.R. 3474].

§ 12.12 The Chairman normally recognizes the manager of a bill for five minutes if he rises in opposition to a preferential motion that the enacting clause be stricken, and no preference in recognition is granted to the minority. 121 CONG. REC. 11505, 11506, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 12.13 Debate in opposition to a preferential motion to strike out the enacting clause may relate to any portion of the bill, including the merits of an amendment pending when the preferential motion was offered. 121 CONG. REC. 15466, 94th Cong. 1st Sess., May 20, 1975 [H.R. 6674, military procurement authorization]. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 14, 1979 [H.R. 4388].

§ 12.14 Debate on the preferential motion to strike the enacting clause is limited to two five-minute speeches, and the Member recognized in opposition to the motion may not extend his time by using time yielded to him by unanimous consent under an allocation of time on the remainder of the bill. 121 CONG. REC. 20618, 20619, 94th Cong. 1st Sess., June 24, 1975 [H.R. 8122].

§ 12.15 Priority of recognition in opposition to a preferential motion to strike out the enacting clause is accorded to a member of the committee reporting the bill. 122 CONG. REC. 30470, 94th Cong. 2d Sess., Sept. 15, 1976 [H.R. 10498].

§ 13. — Renewal of Motion

§ 13.1 A second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out is in order if the bill has been amended since disposition of the first motion. 116 CONG. REC. 20481, 91st Cong. 2d Sess., June 18, 1970 [H.R. 17070].

§ 13.2 A second motion to strike out the enacting clause is not entertained in the absence of any material modification of the bill. 108 CONG. REC. 11369, 87th Cong. 2d Sess., June 21, 1962 [H.R. 11222]; 111 CONG. REC. 6101, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362].

§ 13.3 A second motion to strike out the enacting clause is not in order if the only action of the Committee of the Whole in the interim has been the rejection of a proposed amendment to the bill. 108 CONG. REC. 11369, 87th Cong. 2d Sess., June 21, 1962 [H.R. 11222].

§ 13.4 *Note:* Where a bill is being read for amendment by titles rather than sections, a second motion to "strike the enacting clause" is in order on a subsequent day, notwithstanding the fact that there has been no modification of the bill since the first preferential motion was rejected. See 96 CONG. REC. 6571, 81st Cong. 2d Sess., May 6, 1950 [H.R. 7786].

§ 13.5 A second preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken is in order where there has been a material modification of the bill subsequent to the defeat of the first motion. 121 CONG. REC. 19971, 94th Cong. 1st Sess., June 20, 1975 [H.R. 3474].

§ 13.6 Where the preferential motion that the Committee rise and report the bill with the recommendation that the enacting clause be stricken has been offered and rejected, a second preferential motion may not be offered until there has been a material modification of the bill. 121 CONG. REC. 38677, 94th Cong. 1st Sess., Dec. 4, 1975 [H.R. 10612].

§ 13.7 A preferential motion to strike out the enacting clause may not be offered a second time absent a modification by amendment of the pending bill; merely a modification of a pending amendment in the nature of a substitute for that bill will not suffice. 122 CONG. REC. 17352, 17385, 17386, 94th Cong. 2d Sess., June 10, 1976 [H.R. 13367].

§ 14. House Action on Committee Recommendations

§ 14.1 When the Committee of the Whole has reported back to the House its recommendation regarding the adoption [or rejection] of a resolution disapproving a reorganization plan, the question in the House recurs on the adoption of the resolution of disapproval and not on concurring in the Committee's recommendation. 108 CONG. REC. 1630, 2679, 87th Cong. 2d Sess., Feb. 21, 1962 [H. Res. 530].

§ 14.2 Where the Committee of the Whole reports a bill back to the House with an amendment in the nature of a substitute, and the House agrees with the recommendation of the Committee that the amendment be agreed to, the question then recurs on the engrossment and third reading of the bill. But where the House subsequently rejects such amendment, the original bill, as referred to the legislative committee which reported the bill, is before the House. 106 CONG. REC. 11304, 86th Cong. 2d Sess., May 26, 1960 [H.R. 10128].

§ 14.3 When a recommendation of a Committee of the Whole that the enacting clause of a bill be stricken is rejected by the House, the House, without motion, resolves itself into the Committee of the Whole for further consideration of the bill. 106 CONG. REC. 10577, 86th Cong. 2d Sess., May 18, 1960 [H.R. 5]; 108 CONG. REC. 22363, 87th Cong. 2d Sess., Oct. 4, 1962 [S. 1123]; 111 CONG. REC. 25418, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644]; 113 CONG. REC. 8611, 90th Cong. 1st Sess., Apr. 6, 1967 [during consideration of H.R. 2512].

§ 14.4 The simultaneous consideration in the House of two or more resolutions reported from the Committee of the Whole may be provided for by a special rule. The rule may provide that the Committee shall rise at the end of general debate and report two resolutions to the House, that the previous question be considered as ordered on the adoption of both resolutions without intervening motion, and that said vote not be subject to a division of the question. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 10, 1979 [H. Res. 262, providing for the consideration of H. Res. 212, approving a standby gas rationing plan, and H. Res. 266, approving an amendment thereto].

Chapter 20

Calls of the House; Quorums

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A. GENERALLY

§ 1. In General; Constitutional Requirements

§ 1.1 Under the U.S. Constitution, a majority of each House constitutes a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent Members. U.S. Const. art. I, § 5. Under the former practice (see 120 CONG. REC. 10182, 93d Cong. 2d Sess., Apr. 9, 1974), general debate in the House constituted "business" of the House requiring the presence of a quorum within the meaning of Article I, section 5 of the Constitution. Under Rule XV clause 6(e) adopted in 1977, a point of no quorum cannot be made or entertained unless the Speaker has put the pending motion or proposition to a vote. Thus, during the conduct of debate, the House, by rule, assumes the presence of a quorum and the Members cannot by a point of order challenge this assumption. However, if the lack of a quorum is independently disclosed by the Chair, then debate must cease and no proceedings can transpire unless a quorum is secured. For further discussion of the new rule governing points of no quorum, see § 12, infra.

§ 1.2 During debate on a resolution adopting the rules of the House but prior to the adoption of the rules, any Member may make a point of order of no quorum based upon general parliamentary precedent, since Rule XV clause 6(e), prohibiting points of no quorum except where the Chair has put the question, is not yet applicable. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979. When the absence of a quorum is ascertained prior to the adoption of the rules, a motion for a call of the House is in order. 117 CONG. REC. 14, 92d Cong. 1st Sess., Jan. 21, 1971.

§ 1.3 During a call of the roll by states to determine the presence of a quorum at the opening of a Congress, the Clerk announced receipt of the proclamation of Alaskan Statehood and directed that Alaska be called. 105 CONG. REC. 11, 86th Cong. 1st Sess., Jan. 7, 1959.

§ 1.4 *Note:* Where a Representative-elect dies before the House convenes, his name is included on the roll call by states to establish a quorum and on subsequent calls until the House is informed of his death. 113 CONG. REC. 11-14, 90th Cong. 1st Sess., Jan. 10, 1967. [The name of a Representative-elect who had died in his office shortly before the House was to convene on Jan. 10th was included on the call of the states to establish a quorum, since his certificate of election was on file with those of the other Members-elect. Following this roll call, the Clerk announced his death to the House and the name was removed from subsequent calls.]

§ 1.5 A quorum of the House is a majority of the Members chosen, sworn, and living whose membership has not been terminated by resignation or action of the House. Thus where the membership has been reduced to 432 by reason of deaths, a quorum is 217. 122 CONG. REC. 19312, 94th Cong. 2d Sess., June 18, 1976.

§ 1.6 It is not within the prerogative of the Chair, pursuant to a point of no quorum, to interpret the requirement of Article I section 5 of the Constitution that a majority of the House constitutes a quorum to conduct business, where a House rule specifically prohibits him from entertaining a point of order of no quorum unless he has put a pending question to a vote, since the Chair does not determine the applicability of the constitutional requirement where precluded from doing so by a definitive House rule. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 18, 1980.

§ 2. Effect of Absence of Quorum

§ 2.1 The House cannot conduct business after the absence of a quorum has been announced. Where a quorum fails to develop on a call of the House, the House has only two alternatives; to adjourn or to instruct the Sergeant at Arms to secure the attendance of absentees. 112 CONG. REC. 27512, 89th Cong. 2d Sess., Oct. 18, 1966; 115 CONG. REC. 30054-56, 91st Cong. 1st Sess., Oct. 14, 1969.

§ 2.2 The absence of a quorum having been disclosed on a roll call under clause 4 Rule XV, the House has only two alternatives: to adjourn or to continue the proceedings under the call until a quorum of record is obtained. 108 CONG. REC. 23423-43, 87th Cong. 2d Sess., Oct. 12, 1962.

§ 2.3 After the Speaker has ascertained the absence of a quorum and a call of the House has been ordered, the House may not conduct legislative business until a quorum is established. 118 CONG. REC. 34039, 92d Cong. 2d Sess., Oct. 5, 1972.

§ 2.4 Where a quorum is not present and a call of the House is ordered, the pending business cannot continue until a quorum is obtained and further proceedings under the call are dispensed with. 114 CONG. REC. 30094, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 2.5 Where a quorum of the House is not present during the consideration of a bill in the House as in Committee of the Whole, any Member may object to the vote on an amendment and if a quorum is not present the yeas and nays are ordered under Rule XV clause 4. 116 CONG. REC. 14924, 91st Cong. 2d Sess., May 11, 1970.

§ 2.6 Where the Speaker after a count announces that no quorum is present, debate is suspended until a quorum is secured. 106 CONG. REC. 12142, 86th Cong. 2d Sess., June 8, 1960.

§ 2.7 The Chair refuses to recognize Members after the absence of a quorum has been announced by the Chair, and no business is in order until a quorum has been established. 106 CONG. REC. 12142, 86th Cong. 2d Sess., June 8, 1960.

§ 2.8 Following an announcement that a quorum is not present, a Member may not be recognized to propound a parliamentary inquiry that is not related to the call. 110 CONG. REC. 7353-55, 88th Cong. 2d Sess., Apr. 9, 1964.

§ 2.9 There have been many instances in which, a quorum having failed to appear on a call of the House, the House adjourned. 106 CONG. REC. 16458, 86th Cong. 2d Sess., Aug. 15, 1960; 108 CONG. REC. 23423-43, 87th Cong. 2d Sess., Oct. 12, 1962; 110 CONG. REC. 22023, 88th Cong. 2d Sess., Sept. 14, 1964. See also 121 CONG. REC. 3921, 94th Cong. 1st Sess., Feb. 21, 1975, which states that lack of a quorum having been established on a call of the House, the House adjourned over the weekend pursuant to a previous order.

§ 2.10 The House may adjourn pending a point of order that a quorum is not present. 106 CONG. REC. 16535, 86th Cong. 2d Sess., Aug. 16, 1960.

§ 2.11 The House may adjourn where the vote on a pending motion discloses the absence of a quorum. 117 CONG. REC. 46888, 92d Cong. 1st Sess., Dec. 14, 1971, where the pending vote was on the adoption of a conference report.

§ 2.12 Where a Member objects to a negative vote on a motion to adjourn on the ground that a quorum is not present, the Chair will not entertain a question of privilege pending disposition of the point of no quorum. 115 CONG. REC. 11940, 91st Cong. 1st Sess., Apr. 15, 1969.

§ 3. Calls Ordered on Motion or Under the Rule

§ 3.1 Under Rule XV, there are two calls of the House: (1) the call ordered on motion and (2) a call mandated by the rule. When the lack of a quorum is declared by the Chair, a motion for a call of the House is in order, and if agreed to, the roll is called until a quorum answers or the House adjourns. See Rule XV clause 2. No such motion is required (although one is permitted) where a point of no quorum is sustained when the House is voting on a question requiring a quorum. If the rule is invoked ("Mr. Speaker, I object to the vote on the ground that a quorum is not present") the yeas and nays are ordered on the pending question and Members vote and thereby indicate their presence as part of the same action. See Rule XV clause 4.

§ 3.2 The House passed a bill by voice vote, but vacated the proceedings by unanimous consent; the question on passage was again put, and a quorum not being present, a Member objected to the vote and the yeas and nays were ordered under clause 4 Rule XV. 108 CONG. REC. 22649, 87th Cong. 2d Sess., Oct. 5, 1962 [S. 1447].

§ 3.3 As noted elsewhere in this chapter (§ 12, infra), where the Chair has put the question on a pending matter to a vote in the House, any Member may pursuant to Rule XV clause 6(e) make a point of order of no quorum. If it is sustained by the Chair, a motion for a call of the House is in order unless a Member objects to the vote so as to cause an automatic ordering of the yeas and nays on the pending matter under Rule XV clause 4. 123 CONG. REC. 30289, 95th Cong. 1st Sess., Sept. 22, 1977.

§ 3.4 The provisions of clause 4 Rule XV which permit a Member to object to a vote where a quorum is not present are applicable only in the House, and the "automatic" procedure authorized by that rule is not in order in Committee of the Whole. 116 CONG. REC. 42232, 91st Cong. 2d Sess., Dec. 17, 1970 [H.R. 19446]; 117 CONG. REC. 40054, 92d Cong. 1st Sess., Nov. 9, 1971 [H.R. 10729]; 119 CONG. REC. 18521, 93d Cong. 1st Sess., June 7, 1973 [H.R. 7446]. See also 122 CONG. REC. 9553, 94th Cong. 2d Sess., Apr. 6, 1976 [H.R. 3863], indicating that an "automatic" ordering of the yeas and nays under Rule XV clause 4 is not in order in the Committee of the Whole.

§ 3.5 A call of the House pursuant to motion under clause 2 Rule XV can be ordered by less than a quorum. 108 CONG. REC. 10389, 87th Cong. 2d Sess., June 13, 1962. *Note:* An automatic ordering of the yeas and nays of the House does not result when less than a quorum votes on a motion ordering a call of the House; under clause 2 Rule XV, and under Article I Section 5 of the Constitution, less than a quorum can compel the attendance of absent Members.

§ 3.6 Where a motion for a call of the House is pending, and an objection is made to ordering the call by unanimous consent, the Speaker immediately puts the question on the motion. 108 CONG. REC. 10389, 87th Cong. 2d Sess., June 13, 1962.

§ 3.7 The Constitution (Art. I, § 5) requires the presence of a quorum to transact business, and during a quorum call pursuant to a motion under clause 2 Rule XV the Speaker has no authority in the absence of a quorum to entertain a unanimous-consent request to vacate or rescind proceedings under that call of the House. 118 CONG. REC. 10409, 92d Cong. 2d Sess., Oct. 18, 1972 [conference report on S. 3939]. Compare 121 CONG. REC. 33688, 33689, 94th Cong. 1st Sess., Oct. 22, 1975, which indicates that the yeas and nays were ordered on a motion for a call of the House, a quorum responded on an affirmative vote on the motion,

and then by unanimous consent the order for the call of the House was rescinded.

§ 3.8 Where a point of no quorum is made and a motion to adjourn is defeated on a division vote, a motion for a call of the House is in order. 105 CONG. REC. 3432, 86th Cong. 1st Sess., Mar. 5, 1959.

§ 3.9 If a quorum fails to materialize on a yea and nay vote on a motion to adjourn, decided in the negative, the House may proceed to establish a quorum under a call of the House which was in progress under clause 2 Rule XV when the motion to adjourn was made. 115 CONG. REC. 30054, 91st Cong. 1st Sess., Oct. 14, 1969.

§ 3.10 The Speaker cannot entertain a parliamentary inquiry during a call of the House under clause 2 Rule XV. 117 CONG. REC. 34806, 92d Cong. 1st Sess., Oct. 4, 1971. But see 112 CONG. REC. 27512, 89th Cong. 2d Sess., Oct. 18, 1966, where the Speaker recognized Members to propound parliamentary inquiries during a call of the roll after making it clear that such recognition was not to be considered a precedent.

§ 3.11 While a parliamentary inquiry is not entertained by the Chair in the absence of a quorum, the Chair may recognize a Member on a point of order which relates to the pending call of the House. 114 CONG. REC. 30093, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 3.12 Where the Speaker has, pursuant to Rule XXVII clause 3(b), postponed further proceedings on a motion to suspend the rules where the vote is objected to for lack of a quorum, the "automatic" procedure under Rule XV clause 4 can only be obtained if a quorum is not present at the time the question is put de novo when the House resumes consideration of that unfinished business. 120 CONG. REC. 34125, 93d Cong. 2d Sess., Oct. 7, 1974 [H.R. 16424].

§ 3.13 A motion for a call of the House is privileged if entertained by the Chair in his discretion under Rule XV clause 6(e)(2), and may be entertained after the Speaker has recognized a Member but before he has begun his remarks. 124 CONG. REC. 10983, 95th Cong. 2d Sess., Apr. 20, 1978. Such a motion may also be entertained after the previous question is ordered on adoption of a proposition but before the Chair puts the question thereon. 124 CONG. REC. 38378, 95th Cong. 2d Sess., Oct. 14, 1978. [H.R. 4018]. The rule permits the Speaker in his discretion to recognize for this motion at any time, but he cannot recognize a Member to make a point of no quorum until he has put the pending question to a vote. 123 CONG. REC. 1719, 95th Cong. 1st Sess., Jan 19, 1977; 124 CONG. REC. 38503, 95th Cong. 2d Sess., Oct. 5, 1978 [H.R. 12928]. The House has rejected a motion for a call of the House and proceeded with business. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 27, 1980.

§ 4. Calls by Electronic Device; Time Allowed for Attendance

§ 4.1 Pursuant to a privileged resolution reported from the Committee on Rules, the House amended the rules to provide for a 15-minute minimum procedure for: (1) recording of quorum calls in the House and in Committee of the Whole by electronic device at the discretion of the Chair; (2) a "backup" nonelectronic procedure for recorded teller votes; and (3) nonelectronic quorum calls to be conducted by clerk-tellers in lieu of calling the roll. 118 CONG. REC. 36005-12, 92d Cong. 2d Sess., Oct. 13, 1972 [H. Res. 1123, amending Rules I and XV].

§ 4.2 The Speaker may direct that a call of the House be conducted by an alphabetical call of the roll by the Clerk, notwithstanding the requirement of clause 2(b) of Rule XV that

quorum calls be conducted by clerk-tellers where the Chair, in his discretion, does not utilize the electronic device. 119 CONG. REC. 6699, 93d Cong. 1st Sess., Mar. 7, 1973. *Note:* Clause 1 of Rule XV authorizes the Chair to direct the alphabetical call of the roll on "every roll call" unless the Chair, in his discretion, utilizes the electronic device, but clause 5 of Rule XV distinguishes between "roll calls" and "quorum calls," and clause 2(b) permits "calls of the House" to be had by clerks where the electronic device is not utilized.

§ 4.3 Pursuant to clauses 4 and 5 of Rule XV, the Speaker may, in his discretion, direct the Clerk to call the roll (in lieu of taking the vote by electronic device) where a quorum fails to vote on any question and objection is made for that reason. 119 CONG. REC. 15860, 15861, 93d Cong. 1st Sess., May 16, 1973 [H.R. 5777].

§ 4.4 On a call of the House conducted by electronic device pursuant to clause 5 Rule XV, Members are permitted a minimum of 15 minutes to respond, but it is within the discretion of the Chair, following the expiration of 15 minutes, to allow additional time for Members to record their presence before announcing the result. 119 CONG. REC. 18402, 18403, 93d Cong. 1st Sess., June 6, 1973.

§ 4.5 Where a motion to adjourn intervenes during a call of the House being conducted by electronic device following the expiration of 15 minutes but prior to the announcement of the result of the call, that quorum call remains in progress upon rejection of the motion to adjourn. 119 CONG. REC. 18402, 18403, 93d Cong. 1st Sess., June 6, 1973.

§ 4.6 The Chairman of the Committee of the Whole may direct the Clerk to call the roll to establish a quorum where the electronic system was inoperative (although the Chair, pursuant to Rule XXIII clause 3, could have announced his intention to vacate proceedings when 100 Members had responded on the roll call). 120 CONG. REC. 36656, 93d Cong. 2d Sess., Nov. 20, 1974 [H.R. 16373, Privacy Act of 1974].

§ 4.7 Because of an elevator malfunction, several Members were unable to respond to a quorum call and the Speaker, not having been notified of the problem, did not hold the call open to provide additional time for those Members to respond. Upon being advised of the problem, the Speaker announced that in the future the Chair should be notified so that appropriate steps could be taken to protect the rights of Members so delayed. 121 CONG. REC. 21973, 94th Cong. 1st Sess., July 10, 1975. *Note:* Because there had been intervening business following the quorum call in question it would not have been in order to ask unanimous consent that that call be vacated.

§ 5. Securing Attendance; Arrests

§ 5.1 *Note:* The attendance of absent Members may be secured under Rule XV clause 4 which, when invoked, directs the Sergeant at Arms to bring in absent Members. Members failing to respond by voting or indicating their presence are subject to arrest until a quorum appears. The arrest of Members may also be secured pursuant to motion under clause 2.

§ 5.2 If a quorum fails to answer on a call of the House under Rule XV clause 2, (1) the Sergeant at Arms may be directed by the Speaker to locate absentees and inform them that a quorum call is in progress, or (2) a majority of those present [a minimum of 15 is required under the rule] and voting may order the Sergeant at Arms to compel the attendance of absentees. See 114 CONG. REC. 30210, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 5.3 If a quorum fails to materialize on a call of the House under Rule XV clause 2, a motion to arrest absentees and bring them into the Chamber would be in order. 114 CONG.

REC. 30101, 90th Cong. 2d Sess., Oct. 8, 1968. However, during a call of the House being conducted by electronic device, Members have a minimum of 15 minutes to be recorded, and the Chair may in his discretion permit the call of the House to remain open for additional time and is not required, if he has not announced the failure of a quorum to respond, to recognize for a motion to arrest absent Members. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 23, 1979.

§ 5.4 Where the House in the absence of a quorum and pursuant to motion had ordered "that those who are not present be sent for wherever they are found and returned here on the condition that they shall not be allowed to leave the Chamber until such time as the pending business before this Chamber on this legislative day shall have been completed," the Chair interpreted the motion as requiring the Sergeant at Arms to notify absentees but not as bestowing on him the duty or authority of arresting absentees and bringing them into the Chamber under custody. The Chair stated that the motion had been adopted by, and expressed the will of, the House, and, no timely point of order having been raised against the motion due to lack of a quorum, was binding on the Speaker and other Members. 114 CONG. REC. 30213, 90th Cong. 2d Sess., Oct. 8, 1968, wherein Members having valid reasons to leave the Chamber were advised to consult with the Speaker and their absence for humanitarian reasons would receive proper consideration.

§ 5.5 Under Rule XV clause 2, a motion that the Sergeant at Arms procure the attendance of absentees is in order, but unless directed by such motion, the Sergeant at Arms has no authority to compel attendance. 114 CONG. REC. 30212, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 5.6 The failure of a quorum to respond on a roll call vote (decided in the negative) on a motion to adjourn being conducted under clause 4 Rule XV, would require the Sergeant at Arms to arrest absent Members without further order of the House. 115 CONG. REC. 11940, 91st Cong. 1st Sess., Apr. 15, 1970. *Note:* When it became evident during the automatic roll call on the motion to adjourn that a quorum was not going to respond, some 45 Members changed their votes from "nay" to "yea" so that the House could adjourn.

§ 6. — Closing or Locking Doors

§ 6.1 *Note:* The rules of the House formerly provided for locking the doors to the Chamber to prohibit Members from leaving until a quorum was procured. The current rule (Rule XV clause 2) states that on a call of the House "the doors shall not be closed except when so ordered by the Speaker." It is within the Chair's discretion whether the doors are to be closed. See 114 CONG. REC. 30092, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 6.2 Where the House had ordered the doors to the Chamber locked pending the disposition of pending business, it was not in order by way of a point of personal privilege or by raising a question of the privilege of the House to collaterally attack such order, since it had been adopted by the House at a previous time without challenge. 114 CONG. REC. 30214-16, 90th Cong. 2d Sess., Oct. 8, 1968. *Note:* After repeated quorum calls and other delay pending approval of the Journal, a motion was adopted ordering a call of the House upon disclosure of the absence of a quorum. Thereupon another motion was adopted (before the quorum call commenced) directing that those Members who were not then present be returned to the Chamber and not permitted to leave until the pending business (approval of the Journal) be completed. No point of order was raised against that motion, although it was agreed to by less than a quorum, and no motion to reconsider was subsequently entered against the motion as would have been permitted under 5 Hinds' Precedents § 5665. Subse-

quently, during the continued reading of the Journal, Mr. Robert Taft, Jr. (Ohio), as a matter both of personal privilege and of the privileges of the House, moved that he and all other Members in the Chamber who had been there at the time of the last quorum call be permitted to leave the Chamber at their desire. While the Speaker declined to entertain the motion as a question of privilege based upon Mr. Taft's contention that under the Constitution and rules the freedom of Members who were present should not be restricted, the specific argument was not made that the order had been agreed to by less than a quorum or that it was directed only to the attendance of absentees and not to those present in the Chamber. This precedent does not, then, stand for the proposition that an improper order of the House or the manner of execution of an order of the House can never be collaterally attacked as a matter of the privilege of the House—it merely suggests that the proper contention was not made when the question of privilege was raised.

§ 6.3 Where the doors are closed during a call of the House under Rule XV clause 2, all Members are restrained from leaving the Chamber [unless special permission is granted by the Speaker or the House] notwithstanding the fact that official business, such as a meeting of a committee of conference, might normally require their presence elsewhere. 114 CONG. REC. 30092, 30093, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 6.4 The Speaker ordered the doors to the Chamber closed and locked during a call of the House under Rule XV clause 2, and instructed the Doorkeeper to enforce the rule and let no Members leave the Hall. 114 CONG. REC. 30093, 90th Cong. 2d Sess., Oct. 8, 1968. *Note:* The Chair personally instructed the Doorkeeper to lock all exits from the House Chamber and to prohibit Members from leaving during the call of the House. Doors leading from the Chamber to the Speaker's Lobby, as well as those opening from the cloakrooms, were locked.

§ 6.5 The Speaker, in the absence of a quorum and pursuant to a motion from the floor, which was unchallenged by a point of order when adopted, ordered the doors to the Chamber locked to prevent Members from leaving until completion of the pending business—the reading and approval of the Journal. 114 CONG. REC. 30212, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 6.6 Where the House ordered "that those who are not present be sent for wherever found and returned here on the condition that they shall not be allowed to leave the Chamber until the pending business shall have been completed" and then ordered a call of the House, the Speaker interpreted the motion as requiring the retention in the Chamber of all Members responding on the call—not merely the retention of those Members who were absent when the order was entered into. 114 CONG. REC. 30213, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 6.7 Where the doors to the Chamber are locked, by order of the House, to prevent Members from leaving until the pending business is completed, employees of the House may still enter and exit from the Chamber in the performance of their duties. 114 CONG. REC. 30216, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 6.8 Where the doors to the Chamber are closed and locked during a call of the House pursuant to Rule XV clause 2 and the order of the Speaker, they are reopened without further instructions from the Chair when further proceedings under the call are dispensed with. 114 CONG. REC. 30093, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 6.9 The Chair has no inherent authority to order the doors to the Chamber locked, except during a call of the House; and he cannot lock the doors to prevent Members from leaving

after a motion to dispense with further proceedings under a call is agreed to. 114 CONG. REC. 30093, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 7. The Chair's Count

§ 7.1 In counting for a quorum, the Chair counts all Members visible, even though they may be in the process of leaving the Chamber. 109 CONG. REC. 7116, 88th Cong. 1st Sess., Apr. 25, 1963 [H.R. 4997, extending Feed Grains Act].

§ 7.2 Under clause 4 Rule XV, the Speaker has the authority to note the names of Members present but not voting in order to establish a quorum and decide the pending question. 116 CONG. REC. 44301, 91st Cong. 2d Sess., Dec. 31, 1970, where the Speaker observed the presence of two Members who had not been recorded on an "automatic" roll call being conducted under clause 4 Rule XV, he directed the Clerk to call their names, and when one Member did not respond, directed the Clerk to record him "present" in order to establish a quorum and pass a joint resolution.

§ 7.3 The Speaker may ask the Clerk to call his name at the end of a roll call vote to make a quorum. 112 CONG. REC. 28254, 89th Cong. 2d Sess., Oct. 20, 1966 [where the Speaker voted on a conference report in order to make a quorum].

§ 7.4 The Chairman's count of a quorum is conclusive and may not be challenged on appeal. 120 CONG. REC. 25012, 93d Cong. 2d Sess., July 24, 1974 [H.R. 11500, Surface Mining Control and Reclamation Act of 1974]. See also 123 CONG. REC. 26532, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 6689], indicating that an appeal would not lie from the count of the Chair in determining the presence of a quorum.

§ 7.5 Where a point of order of no quorum is made pending a demand for a recorded vote, the presence of a quorum must be established before the Chairman counts those Members supporting the demand for the recorded vote. 121 CONG. REC. 6707, 6708, 94th Cong. 1st Sess., Mar. 14, 1975 [H.R. 25].

§ 7.6 The Chair's count of those Members standing on a division vote in the House does not demonstrate the absence of a quorum since the Chair in taking such a vote does not count all Members present in the Chamber but only those standing. 123 CONG. REC. 31048, 95th Cong. 1st Sess., Sept. 27, 1977 [H. Res. 724]. 125 CONG. REC. p. ....., 95th Cong. 1st Sess., Aug. 2, 1979 [H.R. 4388].

§ 8. Quorums as Related to Adjournments

§ 8.1 A quorum is not required to adjourn from day to day. 109 CONG. REC. 10674, 88th Cong. 1st Sess., June 11, 1963; 116 CONG. REC. 44190, 91st Cong. 2d Sess., Dec. 30, 1970.

§ 8.2 Failure of a quorum to respond on an affirmative vote on a motion to adjourn does not precipitate an "automatic" roll call under clause 4 Rule XV. 109 CONG. REC. 10674, 88th Cong. 1st Sess., June 11, 1963; 109 CONG. REC. 24634, 88th Cong. 1st Sess., Dec. 14, 1963.

§ 8.3 It is not in order to demand an "automatic" roll call under clause 4 Rule XV on a motion to adjourn, since the motion to adjourn from day to day may be agreed to by less than a quorum. 116 CONG. REC. 44190, 91st Cong. 2d Sess., Dec. 30, 1970.

§ 8.4 Although a quorum is not required to adjourn the House, a point of no quorum on a negative vote on adjournment, if sustained, precipitates a call of the House under the rule (clause 4 Rule XV). 109 CONG. REC. 24217, 88th Cong. 1st Sess., Dec. 11, 1963; 114 CONG. REC. 16225, 90th Cong. 2d Sess., June 6, 1968;

117 CONG. REC. 38536, 38537, 92d Cong. 1st Sess., Nov. 1, 1971.

§ 8.5 The motion to adjourn takes precedence over a motion for a call of the House. 109 CONG. REC. 10739, 10740, 88th Cong. 1st Sess., June 12, 1963. [Following a point of order that a quorum was not present and prior to ascertainment thereof by the Chair, a Member moved a call of the House. Another Member immediately moved to adjourn. The Chair recognized the latter and put the question on the higher privileged motion to adjourn.]

§ 8.6 One motion to adjourn having been offered and rejected at the expiration of 15 minutes during a call of the House by electronic device, another motion to adjourn is in order and takes precedence over a motion directing the Sergeant at Arms to arrest absentees. 119 CONG. REC. 4416, 4417, 93d Cong. 1st Sess., June 6, 1973. *Note:* Because the Speaker had not announced the result of the call of the House at the time the motion to adjourn was offered, the Speaker announced that that call of the House was still open and in progress upon rejection of the adjournment motion, and that Members could record their presence although they had not been able to return to the floor during the 15-minute period.

§ 8.7 The Speaker may decline to entertain a motion to adjourn during his count to ascertain the presence of a quorum. 117 CONG. REC. 34806, 92d Cong. 1st Sess., Oct. 4, 1971.

§ 8.8 Where a quorum fails to respond on a roll call under Rule XV clause 4 and the House adjourns, the unfinished business when the House again reconvenes is the vote on the resolution; and the Speaker puts the question de novo. 112 CONG. REC. 27640, 89th Cong. 2d Sess., Oct. 19, 1966 [H. Res. 1062].

§ 8.9 In response to parliamentary inquiries following the failure of a quorum to vote on a roll call vote, the Chair stated (1) that the "regular order" was to obtain a quorum while awaiting a message from the Senate indicating that the Senate had agreed to a House concurrent resolution for an adjournment *sine die* of both Houses; (2) that the only motion in order (other than motions incident to procuring a quorum) was the motion to adjourn; (3) that a message from the Senate could be received in the absence of a quorum under Rule XV clause 6(a); and (4) that if the House adjourned in the absence of a quorum the special orders already granted could not be delivered, although permission had already been granted for Members to revise and extend their remarks on any subject and on the specific subject of retiring Members. 124 CONG. REC. 38712, 95th Cong. 2d Sess., Oct. 14, 1978.

§ 9. Dispensing With Proceedings Under a Call

§ 9.1 Under the former practice, after a quorum had responded on a call of the House, it was necessary to move to dispense with further proceedings under the call before the House could proceed with pending business. 114 CONG. REC. 30094, 90th Cong. 2d Sess., Oct. 8, 1968. In 1979, the House amended Rule XV clause 6(e)(2) to eliminate the motion to dispense with further proceedings under a call of the House following establishment of a quorum unless the Speaker recognizes for an appropriate motion. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. Under this rule, when a quorum has been established pursuant to a call of the House, the Speaker simply announces that further proceedings under the call are dispensed with. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 28, 1979. *Note:* The precedents below (§§ 9.3–9.5) still pertain if the Chair in his discretion does entertain a motion to dispense with further proceedings.

§ 9.2 *Note:* In 1974 the House adopted Rule XV clause 6(a)(4), which provides that points

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of no quorum will not be in order "during the offering, consideration, and disposition of any motion incidental to a call of the House." Motions to dispense with proceedings under the call are motions incidental to the call of the House.

§ 9.3 A motion to dispense with further proceedings under a call of the House is neither debatable nor amendable. Hence it is not subject to a motion to lay on the table. 108 CONG. REC. 17651-54, 87th Cong. 2d Sess., Aug. 27, 1962; 114 CONG. REC. 26453, 90th Cong. 2d Sess., Sept. 11, 1968; see also 116 CONG. REC. 42504, 91st Cong. 2d Sess., Dec. 18, 1970.

§ 9.4 A motion to dispense with further proceedings under a call of the House, while not entertained until a quorum responds on the call, may be agreed to by less than a quorum thereafter. 114 CONG. REC. 26453, 90th Cong. 2d Sess., Sept. 11, 1968. The presence of a quorum having been disclosed by the call itself, a quorum is not required for a motion to dispense with proceedings thereunder. 114 CONG. REC. 30090, 90th Cong. 2d Sess., Oct. 8, 1968; 116 CONG. REC. 43311, 91st Cong. 2d Sess., Dec. 22, 1970. Since this motion may be agreed to by less than a quorum, objection to a vote thereon on the ground that a quorum is not present does not force a yea and nay vote under Rule XV clause 4. 114 CONG. REC. 26453, 90th Cong. 2d Sess., Sept. 11, 1968; 118 CONG. REC. 28255, 92d Cong. 2d Sess., Aug. 15, 1972.

§ 9.5 Where objection is raised to a unanimous-consent request to dispense with further proceedings under a call of the House, a motion to that effect is in order (114 CONG. REC. 30212, 90th Cong. 2d Sess., Oct. 8, 1968) and may be agreed to on a division vote (109 CONG. REC. 10151-65, 88th Cong. 1st Sess., June 4, 1963).

§ 9.6 When a Member holding the floor is interrupted by a call of the House, he is again entitled to the floor when a motion to dispense with further proceedings under the call has been agreed to; and the Chair has refused to entertain a motion to adjourn where the Member having the floor did not yield for that purpose. 109 CONG. REC. 10151-65, 88th Cong. 1st Sess., June 4, 1963.

B. OBJECTIONS; POINTS OF NO QUORUM

§ 10. In General

§ 10.1 An objection to a vote on the ground that a quorum is not present takes precedence over a demand for tellers on such question. 112 CONG. REC. 9838, 89th Cong. 2d Sess., May 4, 1966.

§ 10.2 A quorum call may interrupt the reading of a resolution. 111 CONG. REC. 26727, 26728, 89th Cong. 1st Sess., Oct. 12, 1965 [H. Res. 598].

§ 10.3 An agreement to postpone a roll call vote until a time certain does not preclude a point of order of no quorum prior to that time. 116 CONG. REC. 26525, 91st Cong. 2d Sess., July 30, 1970.

§ 10.4 A point of no quorum and a call of the House has intervened between the Speaker's ruling on words taken down in Committee of the Whole and reported to the House and the resumption of the committee's sitting. 110 CONG. REC. 756, 88th Cong. 2d Sess., Jan. 21, 1964 [H.R. 4879].

§ 10.5 Where a Member objects to a vote on the ground that a quorum is not present, and [pursuant to a unanimous-consent agreement putting roll calls over until later in the week] further proceedings are postponed, the Speaker puts the question de novo when the bill is again before the House as unfinished business; and any Member has the same rights as when

the question was originally put and may ask for the yeas and nays if they have not been previously refused or, if a quorum is not present, may again object to the vote on that ground. 111 CONG. REC. 26243, 89th Cong. 1st Sess., Oct. 7, 1965.

§ 10.6 Where a quorum is not present during a vote on a motion by division in the House as ascertained by the Chair's count in response to a point of no quorum and a call of the House is then ordered (no Member having objected to the vote under Rule XV clause 4), the Chair puts the question de novo on the motion when a quorum is obtained. 123 CONG. REC. 30290, 95th Cong. 1st Sess., Sept. 22, 1977.

§ 11. In Committee of the Whole

§ 11.1 Subject to the restrictions of Rule XXIII clause 2(a), a point of order that a quorum is not present will lie in the Committee of the Whole. See 116 CONG. REC. 42232, 91st Cong. 2d Sess., Dec. 17, 1970. However, the provisions of Rule XV clause 4, which permit a Member to object to a vote where a quorum is not present, are applicable only in the House, and not in Committee of the Whole. 119 CONG. REC. 18521, 93d Cong. 1st Sess., June 7, 1973. Accordingly, a Member may not object to a vote in Committee of the Whole on the ground that a quorum is not present. 120 CONG. REC. 22667, 93d Cong. 2d Sess., July 10, 1974; 120 CONG. REC. 40509, 93d Cong. 2d Sess., Dec. 17, 1974; 122 CONG. REC. 9553, 94 Cong. 2d Sess., Apr. 6, 1976.

§ 11.2 A point of no quorum in Committee of the Whole is in order while a demand for tellers is pending. 116 CONG. REC. 8562, 91st Cong. 2d Sess., Mar. 23, 1970.

§ 11.3 A point of order of no quorum is not in order in Committee of the Whole where there is pending a motion that the Committee rise, since that motion does not require a quorum for adoption. 118 CONG. REC. 19353, 92d Cong. 2d Sess., May 31, 1972 [H.R. 13918].

§ 11.4 The 96th Congress amended Rule XXIII clause 2 to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the Chair to receive the Committee's report of absentees. 125 CONG. REC. p....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. Under the former practice, when the Committee of the Whole found itself without a quorum, the Committee would rise following the quorum call, the Chairman would report to the Speaker that he had caused the roll to be called to establish the presence of a quorum, the names of the absentees would be spread upon the Journal, and the House would then automatically resolve back into Committee. 115 CONG. REC. 9705, 91st Cong. 1st Sess., Apr. 21, 1969. When the Speaker rose, under the former procedure, the Speaker did not conduct any business, even the reception of a message, while he occupied the Chair to receive the report of the Chairman of the Committee of the Whole. 115 CONG. REC. 9705, 91st Cong. 1st Sess., Apr. 21, 1969.

§ 11.5 A quorum having been ascertained following the Chair's announcement of the apparent result of a voice vote on an amendment in the Committee of the Whole and following a refusal to order a recorded vote, and the Committee having risen before the Chair announced the final result of the vote, the question on the amendment is pending when the Committee resumes consideration of the bill, and division and teller votes may be demanded, although a recorded vote may not again be requested. 125 CONG. REC. p....., 96th Cong. 1st Sess., June 7, 1979 [H.R. 3875].

§ 11.6 A point of order of no quorum may be made in the Committee of the Whole at any time after the Chair has put a pending question to a vote and prior to his final announcement of the result. 125 CONG. REC. p....., 96th

Cong. 1st Sess., June 6, 1979 [H.R. 3875]. In this instance, where a recorded vote had been refused but the Chair had not finally announced the result of a voice vote on an amendment, and the demand for a division or teller vote remained possible, the question remained pending and the Chair was obligated to entertain a point of no quorum under Rule XXIII clause 2(a).

§ 11.7 While it is not in order in Committee of the Whole to secure an automatic ordering of the yeas and nays by objection to a vote on the ground that a quorum is not present, a Member may make a point of order that a quorum is not present while a demand for a recorded vote is pending. 121 CONG. REC. 19186, 19187, 94th Cong. 1st Sess., June 17, 1975 [H.R. 6860].

§ 11.8 While an "automatic" ordering of the yeas and nays is not in order in Committee of the Whole, a point of order of no quorum may intervene between the announcement of a division vote result and prior to transaction of further business and a demand for a recorded vote following the quorum call is not thereby precluded. 121 CONG. REC. 32598, 32599, 94th Cong. 1st Sess., Oct. 9, 1975 [H.R. 200].

§ 11.9 In Committee of the Whole, where there is a demand for a recorded vote and a point of order that a quorum is not present, the point of order must be disposed of first, and once a quorum is ascertained the pending business is the demand for a recorded vote. 121 CONG. REC. 6707, 6708, 94th Cong. 1st Sess., Mar. 14, 1975 [H.R. 25].

§ 11.10 In the 95th Congress, the House adopted a resolution amending Rule XXIII clause 2, to permit a point of no quorum in a Committee of the Whole (other than when the Chair is putting the pending question) only once on a legislative day on each bill considered therein. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5]. Under this rule, where a quorum has been once established in the Committee of the Whole, the Chair may not entertain a point of order of no quorum on that day during the consideration of the same bill unless the Chair has put the pending motion or proposition to a vote (Rule XXIII clause 2). 123 CONG. REC. 20733, 95th Cong. 1st Sess., June 24, 1977 [H.R. 7933, defense appropriations, 1978]; 123 CONG. REC. 21658, 21668, 95th Cong. 1st Sess., June 30, 1977 [H.R. 7933].

§ 12. When in Order

§ 12.1 An action having been completed, it is too late to make the point of order that a quorum was not present when it was taken. 105 CONG. REC. 12110, 86th Cong. 1st Sess., June 29, 1959, where the Speaker, having announced that a conference report had been agreed to following a viva voce vote and a motion to reconsider had been laid on the table, held that an objection to the vote on the ground that a quorum was not present came too late.

§ 12.2 It is too late to object to a vote on the ground that a quorum is not present after the result of that vote has been announced by the Speaker and the motion to reconsider that vote has been laid on the table. 118 CONG. REC. 19344, 92d Cong. 2d Sess., May 31, 1972.

§ 12.3 It is too late to object to a vote for lack of a quorum under clause 4 Rule XV after the Speaker has announced the result of the vote. 118 CONG. REC. 12981, 92d Cong. 2d Sess., Apr. 17, 1972 [H.R. 13435].

§ 12.4 Objection to a vote in the House under clause 4 Rule XV does not come too late after the Chair has announced his opinion of the voice vote on that question but before the House has proceeded to further business. 118 CONG. REC. 32766, 92d Cong. 2d Sess., Sept. 28, 1972 [H.R. 13694]. See also 120 CONG. REC. 26088, 26089, 93d Cong. 2d Sess., July

31, 1974, which states that the Speaker is obligated to entertain a point of order of no quorum and an objection to a vote under Rule XV clause 4 when he has put the question and announced the result but before further business has transpired.

§ 12.5 Objection to a division vote on the ground that a quorum was not present comes too late after the vote has been announced, the bill passed, and a motion to reconsider laid on the table. 108 CONG. REC. 19650, 87th Cong. 2d Sess., Sept. 17, 1962 [S. 345, H.R. 12761].

§ 12.6 Objection to a vote on the ground that a quorum is not present comes too late after the bill has been passed, a motion to reconsider laid on the table and further business is under discussion. 108 CONG. REC. 22649, 87th Cong. 2d Sess., Oct. 5, 1962 [S. 1447].

§ 12.7 A Member must be on his feet and actively seeking recognition when the Chair announces the result of a vote in order to object to the vote on the grounds that a quorum is not present and precipitate an automatic ordering of the yeas and nays. 124 CONG. REC. p. ....., 95th Cong. 2d Sess., Apr. 20, 1978. The mere fact that a Member is on his feet does not constitute notice to the Chair that he is seeking recognition to make such an objection. 108 CONG. REC. 22649, 87th Cong. 2d Sess., Oct. 5, 1962. (In this instance, the action of the House in passing a bill was, by unanimous consent, vacated when a Member insisted that he was on his feet, seeking recognition to object.)

§ 12.8 The Chair will not entertain a unanimous-consent request to waive the provisions of Rule XV clause 6, which prohibit a point of no quorum during special order speeches at the end of the legislative business. 120 CONG. REC. 38664, 93d Cong. 2d Sess., Dec. 9, 1974; 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 18, 1980.

§ 12.9 While Rule XV clause 6(c)(3) prohibits the point of order of no quorum where the presence of a quorum on that day has previously been established and the Speaker is in the process of recognizing Members to address the House under special orders, a point of order of no quorum is in order following the granting of requests of leaves of absence and of requests for the presentation of special orders but before the Speaker has begun to recognize Members for special orders. 121 CONG. REC. 26249, 94th Cong. 1st Sess., July 31, 1975. *Note:* This precedent preceded the adoption of clause 6(e) of Rule XV. Under the new rule, the Speaker would be precluded from recognizing for a point of order during special orders unless a question was put to the House. Clause 6(c)(3) is thus of limited application.

§ 12.10 An objection to a vote on the ground that a quorum is not present under Rule XV clause 4, may not be made until after the question has been put by the Speaker. 121 CONG. REC. 33688, 33689, 94th Cong. 1st Sess., Oct. 22, 1975.

§ 12.11 In 1977, the House adopted a resolution which (*inter alia*) amended Rule XV clause 6 by prohibiting points of order of no quorum in the House unless the Speaker has put the question on a pending matter to a vote, but permitting the Speaker, in his discretion, to recognize a Member to move a call of the House. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5, adopting the rules of the House for the 95th Congress]. Calls ordered on motion, see § 3, supra.

§ 12.12 Under Rule XV clause 6(e)(1) a point of order of no quorum may not be made or entertained in the House unless the Speaker is putting the question on the pending proposition. 123 CONG. REC. 891, 95th Cong. 1st Sess., Jan. 11, 1977. *Note:* Other provisions of Rule XV clause 6 specifically prohibit the making or entertaining of a point of no quorum at certain stages of the legislative process, but these provisions are largely ren-

dered obsolete by clause 6(e), which prohibits points of no quorum at any time unless the Speaker has put a pending question to a vote. See also 124 CONG. REC. 32665, 95th Cong. 2d Sess., Sept. 29, 1978 [H. Res. 1354], indicating that, under Rule XV clause 6(e), a point of order of no quorum may not be made or entertained in the House where a resolution from the Committee on Rules has been called up but prior to the Chair's putting the question thereon.

§ 12.13 Pursuant to Rule XV clause 6(e), prohibiting the making or entertaining of a point of order of no quorum unless the Chair has put the pending motion or proposition to a vote, the Chair, while exercising his discretionary authority under that rule to recognize a Member to move a call of the House at any time, overruled a point of order that article I, section 5 of the U.S. Constitution necessarily requires a quorum for the conduct of debate in the House. 123 CONG. REC. 28123, 95th Cong. 1st Sess., Sept. 8, 1977 [H.R. 7933].

§ 12.14 Where the Chair has not put a pending question to a vote in the House, a Member may not, under Rule XV clause 6(e), make a point of order of no quorum notwithstanding the failure of a quorum to have voted on a prior item of business which is no longer pending. 123 CONG. REC. 29563, 95th Cong. 1st Sess., Sept. 16, 1977.

§ 12.15 Pursuant to Rule XV clause 6(e), a Member may not make and the Speaker may not entertain a point of order of no quorum during debate in the House when a pending question has not been put to a vote. 123 CONG. REC. 29592, 95th Cong. 1st Sess., Sept. 16, 1977 [H.R. 5262]; 124 CONG. REC. 12609, 95th Cong. 2d Sess., May 4, 1978 [conf. rept. on H.R. 6782].

§ 12.16 The refusal of the Chair to entertain a point of order of no quorum where prohibited under Rule XV clause 6 is not subject to appeal. 123 CONG. REC. 29594, 95th Cong. 1st Sess., Sept. 16, 1977.

§ 12.17 The pendency of a unanimous-consent request in the House is not equivalent to the Chair's putting a pending motion or proposition to a vote and does not permit a point of order of no quorum under Rule XV clause 6(e). 123 CONG. REC. 29602, 95th Cong. 1st Sess., Sept. 16, 1977 [H.R. 9005].

§ 12.18 Where a motion that the House resolve into the Committee of the Whole had been made and pending that motion a unanimous-consent request to limit general debate had been stated, the Chair declined to entertain a point of order of no quorum, being proscribed by Rule XV clause 6(e) from recognition for that purpose until a pending question has been put to a vote and notwithstanding a precedent to the contrary established prior to adoption of that rule. 123 CONG. REC. 29602, 95th Cong. 1st Sess., Sept. 16, 1977 [H.R. 9005].

§ 12.19 Where the Chair has put the question on a pending matter to a vote in the House, any Member may pursuant to Rule XV clause 6(e) make a point of order of no quorum which, if sustained by the Chair, permits only a motion to adjourn or for a call of the House unless a Member objects to the vote so as to cause an automatic ordering of the yeas and nays on the motion under Rule XV clause 4. And if a call of the House is ordered the House must first secure a quorum before disposing of the pending matter de novo. 123 CONG. REC. 30290, 95th Cong. 1st Sess., Sept. 22, 1977.

§ 12.20 Where the Speaker postpones further proceedings on a motion to suspend the rules, the question is no longer being put to a vote for purposes of permitting a point of order of no quorum until the question recurs as unfinished business. Likewise, where the Chair puts the question on a motion to suspend the rules and then postpones the vote pursuant to Rule

XXVII clause 3, a Member having objected to the vote on the ground that a quorum is not present and made a point of order that a quorum is not present, the point of order of no quorum is necessarily considered withdrawn under Rule XV clause 6(e) since a question is no longer being put to a vote until it recurs as unfinished business. 123 CONG. REC. 30948, 95th Cong. 1st Sess., Sept. 26, 1977. To the same effect, see 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 24, 1979 [H.R. 5168].

§ 12.21 While under Rule XV clause 6(e) a Member may make a point of order of no quorum when the Speaker has put the question on a motion to suspend the rules to a vote, another Member may, prior to the Chair's count of the House, object to the vote on that basis, thereby permitting the Speaker to postpone further proceedings on the motion pursuant to Rule XXVII clause 3(b)(1), and the postponement having the automatic effect of withdrawing the point of order of no quorum—there no longer being a pending question put to a vote. 123 CONG. REC. 31048, 95th Cong. 1st Sess., Sept. 27, 1977 [H. Res. 724].

§ 12.22 Further proceedings on a motion to suspend the rules having been postponed pursuant to Rule XXVII clause 3, and no question then being put to a vote in the House, article I, section 5 of the U.S. Constitution does not provide an independent basis for a point of order of no quorum since under Rule XV clause 6 the House has determined that it is not at that point "conducting business." 123 CONG. REC. 31048, 95th Cong. 1st Sess., Sept. 27, 1977 [H. Res. 724]. See also 123 CONG. REC. 28800, 95th Cong. 1st Sess., Sept. 12, 1977, where, pending consideration of motions to suspend the rules on which the Speaker had announced his intention under Rule XXVII clause 3(b) to postpone record votes until the completion of debate on all suspension motions, the Speaker ruled: (1) That Rule XV clause 6(e) prohibits a Member from making or the Chair from entertaining a point of no quorum in the House when a pending question has not been put to a vote; and (2) that a point of order of no quorum during debate in the House would not lie independently under article I, section 5 of the U.S. Constitution since Rule XV clause 6(e) is a proper exercise of the House's rulemaking authority under that constitutional provision.

§ 12.23 The 96th Congress adopted provisions amending Rule I clause 1 to remove the requirement for a quorum preceding the Speaker's approval of the Journal and permitting a vote on the Speaker's approval of the Journal. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5].

§ 12.24 Rule XV clause 6(a)(4) prohibits a point of order of no quorum from being made or entertained during the consideration and disposition of any motion incidental to a call of the House, including the motion to dispense with further proceedings under the call (124 CONG. REC. 6081, 95th Cong. 2d Sess., Mar. 8, 1978) or the motion to order a call of the House. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 13, 1979 [H. Res. 454].

§ 13. As Dilatory; Points Raised Following Ascertainment of Quorum

§ 13.1 *Note:* Under a rule adopted by the House on April 9, 1974, when the presence of a quorum is ascertained, a further point of no quorum may not thereafter be made or entertained until additional business intervenes. See clause 6(d) Rule XV [H. Res. 998]. Clause 6(e) of Rule XV, adopted January 4, 1977, precludes the making of a point of no quorum unless a question is being put to a vote. The precedents which follow must be read in the light of these new rules.

§ 13.2 When the presence of a quorum is ascertained a further point of order that a quorum is not present may not thereafter be made or entertained until additional business intervenes. [Rule XV clause 6(d)]. 121 CONG. REC. 36914, 94th Cong. 1st Sess., Nov. 17, 1975 [H.R. 8616]. Where the Speaker ascertains the presence of a quorum by actual count following objection to a voice vote under Rule XV clause 4, and a division vote is then had on the pending question, the division vote is intervening business under clause 6(d), thereby permitting another objection to the division vote for lack of a quorum, and the Speaker must again count the House. 122 CONG. REC. 6792, 6793, 94th Cong. 2d Sess., Mar. 17, 1976 [S. Con. Res. 98]. Similarly, where the Speaker ascertains the presence of a quorum by actual count on a rejected demand for the yeas and nays, and a division vote is then had on the pending question, the division vote is intervening business so as to require the Chair to count the House again where objection to the vote is made on the basis of no quorum. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 2, 1979 [H.R. 4388].

§ 13.3 Where the result of a division vote in the House demonstrates that a quorum is present, a Member may not object to the vote on the ground that a quorum is not present to precipitate an automatic call under Rule XV clause 4, where there has been no intervening business. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 16, 1979 [H.J. Res. 440]. While a division vote following a quorum call is "intervening business" permitting objection to the vote for lack of a quorum pursuant to Rule XV clause 4, the Chair is not bound by the result of the division vote but may count the House to determine that a quorum is still present. 121 CONG. REC. 36914, 94th Cong. 1st Sess., Nov. 17, 1975 [H.R. 8616].

§ 13.4 Since the Constitution defines a quorum of the House and states that it shall be required for the conduct of business, a point of order that a quorum is not present is always in order in the absence of a quorum; and the Chair does not hold such a point to be dilatory. 114 CONG. REC. 30097, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 13.5 A point of no quorum may be held to be dilatory when a quorum has been established and it is apparent to the Chair that a quorum remains on the floor of the House; but where the presence of a quorum is not apparent, or the Chair is uncertain, he will either count the House or recognize a Member to move a call of the House. 114 CONG. REC. 30212, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 13.6 *Note:* The precedents of the House indicate that a point of no quorum is dilatory when it immediately follows a call of the House which discloses the presence of a quorum are not applicable to the situation where there is "intervening business" between the establishment of the quorum and the making of the point of no quorum; and the correction of a roll call, by unanimous consent, is such "business" as will prevent the Chair from holding the point of order to be dilatory on its face. 114 CONG. REC. 30224, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 13.7 The Speaker, if satisfied that a quorum is present and that a point of no quorum is being made for dilatory purposes, may decline to entertain it. 106 CONG. REC. 11829, 86th Cong. 2d Sess., June 3, 1960 [where the Speaker declined to entertain a point of no quorum where more than the number necessary to make a quorum had just responded on a yea and nay vote on a motion to adjourn].

§ 13.8 The Speaker has refused to entertain a point of no quorum where a quorum had just been established by a call of the House and where no further business had been transacted. 117 CONG. REC. 131, 92d Cong. 1st Sess., Jan. 22, 1971.

§ 13.9 The Speaker declined to recognize for a point of no quorum immediately following the disclosure of the presence of a quorum by a call of the House, where no business had intervened between the call and the point of order. 117 CONG. REC. 11095, 92d Cong. 1st Sess., Apr. 21, 1971.

§ 13.10 The Chair may refuse to recognize a Member to make a point of no quorum where the report of the Committee of the Whole pursuant to clause 2 Rule XXIII had just disclosed the presence of a quorum. 113 CONG. REC. 21095, 90th Cong. 1st Sess., Aug. 2, 1967.

§ 13.11 Where the doors to the Chamber were, by order of the House, locked until a quorum had been established and pending business disposed of, the Chair stated that further points of no quorum would be dilatory until the business was completed and the doors opened. 114 CONG. REC. 30213, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 13.12 The Chair has refused to permit a point of no quorum during the reading of a resolution called up immediately following the establishment of a quorum by a call of the House. 117 CONG. REC. 11101, 92d Cong. 1st Sess., Apr. 21, 1971.

§ 13.13 The Chair indicated that under Rule XXIII clause 2, as amended in the 95th Congress, a point of order that a quorum is not present may not be made in the Committee of the Whole after a quorum has once been established in the Committee on that day on the pending bill, unless the Chair has put the question on a pending motion or proposition. 123 CONG. REC. 6180, 95th Cong. 1st Sess., Mar. 3, 1977. *Note:* The restriction in Rule XXIII clause 2 against making a point of order of no quorum "after the roll has been once called to establish a quorum during such day" means on that day during consideration of the pending bill, since the House resolves itself into a new Committee of the Whole on each bill, with a new Chairman. The rule barring points of order that a quorum is not present after a quorum has once been established in the Committee of the Whole is applicable whether the quorum was established by a regular quorum call or a vacated quorum call pursuant to Rule XXIII clause 2. 124 CONG. REC. 16778, 95th Cong. 2d Sess., June 8, 1978.

§ 14. Withdrawal

§ 14.1 A point of order that a quorum is not present may be withdrawn, providing the absence of a quorum has not been announced by the Chair; and such withdrawal does not require unanimous consent. 108 CONG. REC. 6379, 87th Cong. 2d Sess., Apr. 11, 1962; 113 CONG. REC. 32662, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388]; 115 CONG. REC. 24372, 91st Cong. 1st Sess., Sept. 4, 1969 [during consideration of H.R. 12085]; 115 CONG. REC. 33255, 91st Cong. 1st Sess., Nov. 6, 1969 [H. Con. Res. 441].

§ 14.2 A point of no quorum may not be withdrawn after the absence of a quorum has been announced by the Chair. 105 CONG. REC. 18442, 18443, 18453, 86th Cong. 1st Sess., Sept. 7, 1959; 106 CONG. REC. 18756, 86th Cong. 2d Sess., Aug. 31, 1960. A point of order of no quorum may not be withdrawn, even by unanimous consent, after the absence of a quorum has been ascertained and announced by the Chair since the House may not conduct business, including the disposition of unanimous consent requests, in the absence of a quorum. 123 CONG. REC. 30083, 95th Cong. 1st Sess., Sept. 21, 1977 [H.R. 6796]. The same rule is followed in the Committee of the Whole. 124 CONG. REC. 10119, 95th Cong. 2d Sess., Apr. 13, 1978. 124 CONG. REC. 20569, 95th Cong. 2d Sess., July 12, 1978.

§ 14.3 Objection having been raised to a division vote on the ground that a quorum was not present, the point of order that a quorum was not present was withdrawn and further

proceedings were postponed pursuant to a previous unanimous-consent agreement that any roll call votes would be put over until a later day. 111 CONG. REC. 25941, 25944, 89th Cong. 1st Sess., Oct. 5, 1965 [S.J. Res. 106].

§ 14.4 Where a Member has objected to a vote on a motion to suspend the rules on the ground that a quorum is not present and the Speaker has, pursuant to Rule XXVII clause 3, announced that further proceedings on the motion would be postponed but has not announced the absence of a quorum, that Member may withdraw his point of no quorum and unanimous consent is not required. 120 CONG. REC. 38608, 93d Cong. 2d Sess., Dec. 9, 1974.

§ 14.5 *Note:* Where the Speaker, pursuant to his prior announcement under Rule XXVII clause 3(b), postpones further proceedings on a motion to suspend the rules—objection to the vote having been made for lack of a quorum, the Member objecting to the vote must then withdraw his point of no quorum to enable the House to proceed with business. See 120 CONG. REC. 17521 et seq., 93d Cong. 2d Sess., June 4, 1974.

§ 14.6 While the Senate may by unanimous consent rescind an order for a quorum call before the Chair has announced the absence of a quorum, the order for a quorum call may not be rescinded when the absence of a quorum has been ascertained and announced by the Chair. 123 CONG. REC. 30619, 95th Cong. 1st Sess., Sept. 23, 1977.

Chapter 21

The Order of Business; Special Orders

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A. GENERALLY

§ 1. Legislative Scheduling; Unfinished Business

§ 1.1 *Note:* The order of business is governed by Rule XXIV which provides for consideration of business on the Speaker's table, unfinished business, the morning hour call of committees, private business, and District of Columbia business. The motion to suspend the rules is provided by Rule XXVII and the Consent and Discharge Calendars are provided for by Rule XIII. The order of business may be interrupted for business otherwise privileged under the rules. And the order of business may be varied by unanimous-consent requests and special orders reported from the Committee on Rules and adopted by the House.

§ 1.2 The legislative schedule or program for the House is announced to the Members by the majority leader or whip, or in their absence, by the Speaker himself. 108 CONG. REC. 16730, 87th Cong. 2d Sess., Aug. 16, 1962, where the Speaker made a statement from the Chair regarding scheduling of legislation; 110 CONG. REC. 11690, 88th Cong. 2d Sess., May 21, 1964, where the Speaker, in the absence of the majority leader and whip, took the floor to announce the program for the coming week.

§ 1.3 Where final action on several bills is put over from one day to the next pursuant to a special order postponing roll calls, the further consideration of these measures is the unfinished business on the day when roll calls are again in order; and the Chair puts the question on each bill de novo, in the order in which they were considered on the prior day. 111 CONG. REC. 26243, 89th Cong. 1st Sess., Oct. 7, 1965, where the unfinished business was S.J. Res. 106, one of several bills carried over from the preceding two days. A similar procedure is followed—and the question is put de novo—when a vote is postponed pursuant to Rule I clause 5, the vote having been objected to under clause 4, Rule XV when initially before the House, and the yeas and nays or a recorded vote may be ordered when the vote recurs as unfinished business. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 28, 1980.

§ 1.4 Without responding to a parliamentary inquiry concerning the order of business, the Speaker may recognize the Member who had been handling the resolution under consideration at the time a recess had been declared. 110 CONG. REC. 7302–04, 88th Cong. 2d Sess., Apr. 8, 1964, where the Speaker, having recognized one Member to propound a parliamentary inquiry regarding the status of a resolution as "unfinished business", then recognized another Member to withdraw the resolution.

§ 1.5 Under Rule XXIV, prescribing the order of business, legislative business on the Speaker's table is not disposed of until the Journal has been approved. See 109 CONG. REC. 23751, 88th Cong. 1st Sess., Dec. 7, 1963.

§ 1.6 Executive communications on the Speaker's table are not referred when the House adjourns before the reading or approval of the Journal. 109 CONG. REC. 23751, 88th Cong. 1st Sess., Dec. 7, 1963, where executive communications on the Speaker's table were held and referred on December 9.

§ 1.7 Where the House has postponed further consideration of several veto messages to a day certain, they become the unfinished business on that day in any order determined by the Speaker, and not necessarily in the order in which postponed. See 120 CONG. REC. 36614, 36622, 36634, 36636, 93d Cong. 2d Sess., Nov. 20, 1974 [H.R. 14225, the Rehabilitation Act and Randolph Sheppard Act Amendments of 1974; H.R. 12471, the Freedom of Information Act; H.R. 6624, for the relief of Alvin V. Burt, et al.; H.R. 7768, for the relief of Nolan Sharp].

§ 1.8 When the consideration of unfinished business resumes in the House, debate does not begin anew but recommences from the point where it was interrupted. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 10, 1980 [H. Res. 660].

§ 2. Varying the Order of Business

§ 2.1 The Speaker may advise the Members that he is amenable to recognizing for unanimous-consent requests to call up bills requiring disposition before adjournment, providing such measures are carefully screened by the leadership on both sides. 110 CONG. REC. 19943, 88th Cong. 2d Sess., Aug. 17, 1964.

§ 2.2 The vote on the passage of a bill may, by unanimous consent, be put over until the following day. 111 CONG. REC. 17217, 89th Cong. 1st Sess., July 19, 1965.

§ 2.3 By unanimous consent, the House often makes it in order to call up as privileged at some future time a bill not otherwise in order. 117 CONG. REC. 33826, 92d Cong. 1st Sess., Sept. 29, 1971. Thus, by unanimous consent, the House has made it in order to call up as privileged a joint resolution on "any day" during or after a designated period. 117 CONG. REC. 33826, 33827, 92d Cong. 1st Sess., Sept. 29, 1971.

§ 2.4 It should also be pointed out that since the order of business may be varied by unanimous consent, the House may by unanimous consent consider a legislative proposition while another is pending. 124 CONG. REC. 38319, 95th Cong. 2d Sess., Oct. 14, 1978. [H. Con. Res. 755, authorizing corrections in the enrollment of a bill].

§ 2.5 The House, having agreed to postpone for one day votes on motions to recommit and on final passage, later agreed, by unanimous consent, to postpone votes in the House on amendments reported from the Committee of the Whole on a designated bill in like manner. 119 CONG. REC. 12551, 93d Cong. 1st Sess., Apr. 16, 1973.

§ 2.6 Unanimous-consent requests for the transaction of legislative business are not customarily entertained in the House after special orders have begun. On occasion, however, the House has permitted the transaction of legislative business (the filing of privileged reports), by unanimous consent, after scheduled business has been concluded and "special order" speeches begun. 117 CONG. REC. 6848, 92d Cong. 1st Sess., Mar. 17, 1971.

§ 2.7 Special-order speeches may be rescheduled to the following day, by unanimous consent, due to adjournment of the House out of respect for a deceased Member. 108 CONG. REC. 22850, 87th Cong. 2d Sess., Oct. 9, 1962; 109 CONG. REC. 13004, 88th Cong. 1st Sess., July 22, 1963 (where special orders for Monday were rescheduled to precede special orders for Tuesday by unanimous consent); 109 CONG. REC. 17013, 88th Cong. 1st Sess., Sept. 16, 1963; 112 CONG. REC. 3016, 89th Cong. 2d Sess., Feb. 15, 1966, where special orders were rescheduled for the following day to precede special orders previously obtained for the later date.

§ 2.8 By unanimous consent, votes on motions to suspend the rules and on resolutions reported from the Committee on Rules were postponed until after a time certain on that day. 121 CONG. REC. 15392, 94th Cong. 1st Sess., May 20, 1975.

§ 2.9 By unanimous consent, the order whereby votes on all reports from the Committee on Rules had been postponed until after a time certain was modified to permit a vote on a procedural matter reported from that committee. 121 CONG. REC. 15396, 94th Cong. 1st Sess., May 20, 1975.

§ 2.10 Rule XXV, which provides that "questions as to the priority of business shall be decided by a majority without debate," merely

precludes debate on motions to go into the Committee of the Whole, on questions of consideration, and on appeals from the Speaker's decisions on priority of business, and should not be utilized to permit a motion directing the Speaker to recognize Members in a certain order or to otherwise establish an order of business. 121 CONG. REC. 26249, 26251, 94th Cong. 1st Sess., July 31, 1975.

§ 2.11 Pursuant to a special rule adopted by the House waiving for the balance of the week the two-thirds votes required for consideration of Rules Committee reports the same day as reported, that committee filed and immediately called up as privileged a resolution: (1) providing for meetings of the House on Tuesdays and Fridays for the remainder of the session; (2) authorizing the Clerk to receive messages from the Senate and President notwithstanding any adjournment during the remainder of the session; (3) authorizing the Speaker to declare recesses subject to the call of the Chair during the remainder of the session; and (4) waiving the two-thirds vote requirement on reports from the Rules Committee the same day reported for the remainder of the session. 121 CONG. REC. 41885, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Res. 945].

§ 2.12 The 96th Congress adopted provisions amending Rule I clause 5 to give the Speaker discretion to postpone record votes on the passage or adoption of bills, resolutions, or conference reports to a time certain within two legislative days. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. Although this rule does not require the Speaker to announce in advance his intention to postpone recorded votes pursuant thereto, the Speaker may in fact make such an announcement for the information of Members. See 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 21. 1979. The Speaker puts the question de novo where a vote has been objected to for lack of a quorum and postponed by the Speaker pursuant to this rule, and a recorded vote or the yeas and nays may be demanded where the Chair puts the question as the pending or unfinished business. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 22, 1979. *Note:* Business postponed from earlier the same day is designated as "pending" business when the question is put again, whereas business postponed from a preceding day is termed "unfinished business." Postponing recorded votes generally, see Ch. 30, infra.

§ 2.13 The further consideration of a bill in the House as in the Committee of the Whole may be postponed by motion or unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 26, 1979 [H.R. 2676].

§ 2.14 By unanimous consent, the House agreed to postpone all roll call votes (except on procedural questions) which might be ordered on a specific day to a subsequent day certain. 124 CONG. REC. 33595, 95th Cong. 2d Sess., Oct. 4, 1978. And in this instance, the Speaker announced that votes on motions to suspend the rules and to recommit a conference report on which the yeas and nays had been ordered would be postponed to become the unfinished business on that subsequent day. 124 CONG. REC. p. ....., 95th Cong. 2d Sess., Oct. 10, 1978.

§ 3. Varying the Order of Calendar Days

§ 3.1 The day on which motions on the Calendar of Motions to Discharge Committees could be called up under clause 4 Rule XXVII was, by unanimous consent, changed from the second Monday to the following Wednesday. 106 CONG. REC. 12256, 12272, 86th Cong. 2d Sess., June 9, 1960. Following a unanimous-consent agreement changing the day on which motions on the Calendar of Motions to Discharge Committees could be called up, the Speaker stated that a motion that had been on the calendar for seven legislative days prior to

the date set in the unanimous-consent agreement would be eligible.

§ 3.2 By unanimous consent, motions to discharge committees which under Rule XXVII were eligible to be called up on a Monday, were made in order on a Wednesday. 106 CONG. REC. 12120, 86th Cong. 2d Sess., June 8, 1960.

§ 3.3 By unanimous consent, District of Columbia business in order on the second Monday of the month (a legal "Columbus Day" holiday when the House would not be in session) was transferred to the following day. 117 CONG. REC. 34882, 92d Cong. 1st Sess., Oct. 5, 1971.

§ 3.4 District of Columbia business and authority for the Speaker to recognize for a suspension were, by unanimous consent, transferred to the next day due to the death of a Member. 110 CONG. REC. 18854, 88th Cong. 2d Sess., Aug. 10, 1964.

§ 3.5 By unanimous consent, the House agreed that certain District of Columbia business could be considered on a Wednesday under the rules and procedures normally applicable to District bills called up on the second or fourth Mondays of the month. 106 CONG. REC. 11116, 86th Cong. 2d Sess., May 25, 1960.

§ 3.6 The call of the Consent and Private Calendars and authority for the Speaker to recognize for suspensions under clause 1 of Rule XXVII were, by unanimous consent, made in order on the second Tuesday of the month due to the adjournment of the House for an Easter recess. 107 CONG. REC. 5289, 87th Cong. 1st Sess., Mar. 29, 1961.

§ 3.7 By unanimous consent, the call of the Consent Calendar under clause 4 Rule XIII, and the authority for the Speaker to recognize for motions to suspend the rules under clause 1 Rule XXVII, were transferred from the first Monday to the first Tuesday of the following month. 117 CONG. REC. 21908, 92d Cong. 1st Sess., June 24, 1971.

§ 3.8 The call of the Consent Calendar and authority for the Speaker to recognize for suspensions under clause 1 Rule XXVII were, by unanimous consent, made in order on the following Tuesday and Friday, due to the death of a Member. 106 CONG. REC. 13411, 86th Cong. 2d Sess., June 20, 1960.

§ 3.9 The House has by resolution authorized the call of the Consent Calendar and the consideration of motions to suspend the rules on a day other than that specified in clause 4 Rule XIII and clause 1 Rule XXVII. 107 CONG. REC. 17766, 87th Cong. 1st Sess., Aug. 31, 1961.

§ 4. Calendar Wednesday

§ 4.1 *Note:* Under the Calendar Wednesday rule (clause 7 Rule XXIV) Wednesdays are set apart for the consideration, pursuant to a call of committees, of unprivileged bills on the House and Union Calendars. The rule applies to unprivileged bills only, and when a bill otherwise unprivileged is given a privileged status by unanimous consent or by rule it is automatically rendered ineligible for consideration on Calendar Wednesday.

§ 4.2 In answer to a parliamentary inquiry, the Speaker pro tempore stated that any member of a committee may call up a bill on Calendar Wednesday if authorized to do so by the committee. 109 CONG. REC. 24570, 88th Cong. 1st Sess., Dec. 13, 1963.

§ 4.3 The question of consideration may be demanded in the House on a bill called up under the Calendar Wednesday rule. 106 CONG. REC. 9417, 86th Cong. 2d Sess., May 4, 1960. See also 107 CONG. REC. 17577, 87th Cong. 1st Sess., Aug. 30, 1961, where the House refused to consider a bill called up on Calendar Wednesday.

§ 4.4 When a bill is called up by a committee under the Calendar Wednesday rule, the question of consideration is properly raised after the Clerk has read the title of the bill; and if the question of consideration is decided in the affirmative, when raised against a bill on the Union Calendar, the House automatically resolves itself into the Committee of the Whole. 106 CONG. REC. 9417, 86th Cong. 2d Sess., May 4, 1960.

§ 4.5 The refusal of the House to consider a bill called up under the Calendar Wednesday rule would not prevent the reporting of a resolution by the Committee on Rules making the bill a special order of business. 106 CONG. REC. 9417, 86th Cong. 2d Sess., May 4, 1960.

§ 5. — Dispensing With Calendar Wednesday Business

§ 5.1 The majority leader may be recognized to ask unanimous consent to dispense with Calendar Wednesday business on that day. 108 CONG. REC. 19940, 87th Cong. 2d Sess., Sept. 19, 1962, where a unanimous-consent request to dispense with Calendar Wednesday business was made prior to approval of the Journal.

§ 5.2 Calendar Wednesday business may be dispensed with by motion presented at the proper time. 108 CONG. REC. 19943, 87th Cong. 2d Sess., Sept. 19, 1962, where the motion was held not in order prior to the approval of the Journal.

§ 5.3 Ten minutes of debate (five minutes in favor and five minutes in opposition) are permitted on a motion to dispense with Calendar Wednesday business. 119 CONG. REC. 19028-30, 93d Cong. 1st Sess., June 11, 1973.

§ 5.4 A motion to dispense with a call of committees under the Calendar Wednesday rule is privileged and requires a two-thirds vote for adoption. 108 CONG. REC. 19943, 87th Cong. 2d Sess., Sept. 19, 1962; 119 CONG. REC. 19028-30, 93d Cong. 1st Sess., June 11, 1973, where a privileged motion to dispense with Calendar Wednesday business preceded District of Columbia business under clause 8 Rule XXIV, and was rejected.

§ 6. District of Columbia Business

§ 6.1 District of Columbia business called up on District Day may be considered by unanimous consent. 118 CONG. REC. 14000, 92d Cong. 2d Sess., Apr. 24, 1972 [H.R. 2895].

§ 6.2 By unanimous consent, the House may make in order on certain days of the following week the consideration of an omnibus District of Columbia revenue bill under the general rules of the House. 116 CONG. REC. 39843, 91st Cong. 2d Sess., Dec. 3, 1970 [H.R. 19885].

§ 6.3 District of Columbia bills, called up on District Day, if on the Union Calendar, may be considered by unanimous consent in the House as in Committee of the Whole or in the Committee of the Whole. 110 CONG. REC. 18949, 88th Cong. 2d Sess., Aug. 11, 1964 [H.R. 9774], where the House rejected a motion that it resolve into Committee of the Whole for the consideration of a District of Columbia bill on the Union Calendar.

§ 6.4 District of Columbia bills called up on District Day, if on the Private Calendar, may be considered by unanimous consent in the House as in the Committee of the Whole. 118 CONG. REC. 14000, 92d Cong. 2d Sess., Apr. 24, 1972 [H.R. 2895]. *Note:* The Committee of the Whole House was discharged from consideration of the private bill H.R. 2895 when the bill was considered by unanimous consent in the House as in Committee of the Whole.

§ 6.5 A question of the privileges of the House may be raised pending the consideration of legislation called up by the Committee on the District of Columbia on the second and fourth Mondays of the month. 116 CONG.

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REC. 41355, 41374, 91st Cong. 2d Sess., Dec. 14, 1970.

§ 6.6 On a District Day, the Speaker recognized a member of the Committee on Rules to call up a privileged resolution relating to the order of business, and later recognized the chairman of another committee to call up the business made in order thereby, prior to recognizing the Chairman of the Committee on the District of Columbia to call up District business under clause 8 Rule XXIV. 108 CONG. REC. 20489, 20494, 20521, 87th Cong. 2d Sess., Sept. 24, 1962 [H. Res. 804, providing for the consideration of S.J. Res. 224, authorizing the President to call up reservists]. *Note:* The Committee on the District of Columbia did not assert its right to call up District business as privileged [clause 8 Rule XXIV]; following transaction of other business the Speaker announced that it was "District Day" and recognized Members to bring up such business.

§ 6.7 By unanimous consent, business from the Committee on the District of Columbia was made in order on the fifth Monday of the month. 120 CONG. REC. 24472, 93d Cong. 2d Sess., July 22, 1974.

§ 6.8 It is not in order to offer as privileged a motion to discharge a committee from the consideration of a simple resolution disapproving an act passed by the District of Columbia City Council prior to the time that the council becomes vested with the authority to pass the category of acts to which the resolution and the motion to discharge applies, under the act providing for such procedure (the District of Columbia Home Rule Act, Pub. L. No. 93-198). 122 CONG. REC. 30748, 94th Cong. 2d Sess., Sept. 22, 1976 [H. Res. 1481, to disapprove the Firearms Regulation Act passed by the D.C. City Council]. *Note:* The argument in support of the motion to discharge was primarily directed to the premise that the D.C. Council's passage of the Firearms Control Act violated the Home Rule Act by exceeding the council's authority granted therein. However, the proper procedure for challenging the council action was a concurrent resolution disapproving the action or a case brought in court. As the Speaker indicated in his ruling, the adoption of a simple resolution would have been ineffective. If the council action was legally invalid under the Home Rule Act, the Firearms Act would be void as a matter of law and the simple resolution would not affect that status. If the council action was legally valid, the simple resolution would have been ineffective to disapprove it, as the Home Rule Act requires a concurrent resolution to disapprove acts within the council's authority to enact.

§ 7. One-minute Speeches

§ 7.1 *Note:* One-minute speeches are those normally entertained at the beginning of the legislative day, and are to be distinguished from special-order speeches, which may be of up to 60 minutes' duration and are entertained at the conclusion of the day's legislative business.

§ 7.2 While one-minute speeches are normally entertained at the beginning of the legislative day, immediately following the approval of the Journal, the Speaker sometimes recognizes Members to proceed for one minute after business has been conducted. 115 CONG. REC. 30080, 91st Cong. 1st Sess., Oct. 15, 1969, where, instead of ruling on whether words uttered in debate gave rise to a question of personal privilege, the Speaker recognized a Member for a one-minute speech to reply to what the Member considered derogatory.

§ 7.3 Recognition for one-minute speeches is within the discretion of the Speaker; and his evaluation of the time consumed is a matter for the Chair and is not subject to challenge or question by a parliamentary inquiry. 118 CONG. REC. 16288, 92d Cong. 2d Sess., May 9, 1972.

§ 7.4 The Speaker pro tempore announced that he would recognize Members to address the House for longer than one minute (up to one hour) on a day when the House had no scheduled legislative business pending the filing of conference reports. 117 CONG. REC. 47429, 92d Cong. 1st Sess., Dec. 16, 1971.

§ 7.5 Recognition for one-minute speeches is within the discretion of the Speaker; and when the House has a heavy legislative schedule, he sometimes refuses to recognize Members for that purpose. 114 CONG. REC. 22633, 90th Cong. 2d Sess., July 22, 1968; 116 CONG. REC. 20245, 91st Cong. 2d Sess., June 17, 1970. See also 112 CONG. REC. 27640, 89th Cong. 2d Sess., Oct. 19, 1966, where the Chair declined to recognize Members for one-minute speeches before proceeding with unfinished business.

§ 7.6 The Speaker may, at his discretion, recognize Members for one-minute speeches prior to consideration of legislative business, but may refuse to recognize requests for extensions of that time. 116 CONG. REC. 476, 91st Cong. 2d Sess., Dec. 17, 1970.

§ 7.7 When Members have been recognized for one-minute speeches prior to legislative business, the Speaker has refused to put to the House unanimous-consent requests for extensions of that time. 117 CONG. REC. 13724, 92d Cong. 1st Sess., May 6, 1971.

§ 7.8 The Speaker refused to recognize for one-minute speeches before proceeding with a special order eulogizing a deceased Member. 113 CONG. REC. 18639-61, 90th Cong. 1st Sess., July 13, 1967.

§ 7.9 The Speaker announced the procedure whereby (and the time at which) Members would be recognized to make speeches up to one minute in length. 121 CONG. REC. 1163, 94th Cong. 1st Sess., Jan. 23, 1975.

§ 7.10 While the Chair normally confers recognition from his right to his left upon those Members who are standing in the well when the time for one-minute speeches begins, the order of recognition is within the discretion of the Speaker, and he may continue to recognize majority members arriving at a later time before recognizing minority members. 124 CONG. REC. 10987, 95th Cong. 2d Sess., Apr. 20, 1978.

§ 8. Special-order Speeches

§ 8.1 Special orders to address the House at the conclusion of business of the day are limited to one hour per Member; and when a Member has used one hour, the Chair will decline to recognize him for extensions of time or for an additional special order. 112 CONG. REC. 2794, 89th Cong. 2d Sess., Feb. 9, 1966; 113 CONG. REC. 30472, 90th Cong. 1st Sess., Oct. 30, 1967. A Member may not extend that time, even by unanimous consent, since under clause 2 Rule XIV a Member may not be recognized for more than one hour of debate on any question. 117 CONG. REC. 24594, 24603, 92d Cong. 1st Sess., July 12, 1971; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 16, 1979.

§ 8.2 When a Member has used his hour he may not receive an extension of time, but another Member, entitled to the floor in his own right, may yield to the first Member. 114 CONG. REC. 14265, 90th Cong. 2d Sess., May 21, 1968.

§ 8.3 A Member having a special order was permitted, by unanimous consent, to relinquish the floor temporarily to allow the Member having the next special order to use a part of his own time. 112 CONG. REC. 14988, 89th Cong. 2d Sess., July 11, 1966.

§ 8.4 In the 93d Congress, Rule XV was amended by the addition of clause 6 which prohibits points of no quorum during special

orders. H. Res. 998, 93d Cong. 2d Sess., Apr. 9, 1974.

§ 8.5 Special orders by many Members to address the House, totaling 21 hours and 45 minutes, were requested for the evening of October 14, 1969 (the eve of the October Vietnam moratorium assembly in Washington). 115 CONG. REC. 29228, 91st Cong. 1st Sess., Oct. 8, 1969. In this instance, a Member was granted a special order to address the House at the conclusion of other special orders previously granted with the understanding that his time would terminate at the end of 60 minutes or when the House convened on the next calendar day, whichever occurred earlier. 115 CONG. REC. 29938, 91st Cong. 1st Sess., Oct. 14, 1969.

§ 8.6 While the House does not customarily consider legislation after the Speaker has begun to recognize Members for "special order speeches," there is no House rule prohibiting consideration of legislative business at any time the House is in session. 121 CONG. REC. 26952, 94th Cong. 1st Sess., Aug. 1, 1975. See 122 CONG. REC. 5897-99, 94th Cong. 2d Sess., Mar. 9, 1976, where the Speaker recognized a Member between "special order speeches" to request consideration of a House concurrent resolution by unanimous consent. See also 110 CONG. REC. 614, 88th Cong. 2d Sess., Jan. 20, 1964; 114 CONG. REC. 430, 90th Cong. 2d Sess., Jan. 22, 1968 [S.J. Res. 132]; 117 CONG. REC. 6848, 92d Cong. 1st Sess., Mar. 17, 1971.

§ 8.7 The Speaker may announce that the calling up of special orders will not prejudice the consideration of further legislative business later that day. 121 CONG. REC. 26952-54, 94th Cong. 1st Sess., Aug. 1, 1975. Such an announcement has been made by the Speaker when the House is approaching a *sine die* adjournment and is awaiting a message from the Senate relating thereto. 122 CONG. REC. 35192, 94th Cong. 2d Sess., Oct. 1, 1976.

§ 9. — Scheduling and Sequence of Special-order Speeches

§ 9.1 *Note:* Special-order speeches are ordinarily made in the order in which permission has been granted to the requesting Members by the House. However, the House may by unanimous consent change that order to accommodate Members. See, for example, 119 CONG. REC. 16578, 16579, 93d Cong. 1st Sess., May 22, 1973.

§ 9.2 The Speaker, with the consent of the two Members involved, may reverse the normal sequence of two special orders and call the second order first. 116 CONG. REC. 13292, 91st Cong. 2d Sess., Apr. 28, 1970.

§ 9.3 By unanimous consent, a Member may be granted a special order to speak ahead of those already scheduled for special orders. 111 CONG. REC. 16885, 89th Cong. 1st Sess., July 14, 1965; 119 CONG. REC. 27023, 93d Cong. 1st Sess., July 31, 1973.

§ 9.4 The Speaker announced that he would, by unanimous consent, recognize the Chairman and ranking minority member of the Committee on Appropriations for special-order speeches immediately following the reading of the President's budget message and ahead of other Members who had special orders previously scheduled for that day. 117 CONG. REC. 990, 92d Cong. 1st Sess., Jan. 29, 1971.

§ 9.5 Special orders scheduled for a day when the House adjourns are not automatically in order on the next legislative day; they must again be requested or by unanimous consent transferred en bloc. 106 CONG. REC. 6823, 86th Cong. 2d Sess., Mar. 29, 1960; 117 CONG. REC. 485, 92d Cong., 1st Sess., Jan. 26, 1971.

§ 9.6 The Speaker may not be compelled by a motion under Rule XXV to recognize Members for scheduled "special orders" immediate-

ly upon completion of scheduled legislative business, as he may continue to exercise his power of recognition under Rule XIV clause 2 to recognize other Members for unanimous-consent requests and permissible motions. 121 CONG. REC. 26249, 94th Cong. 1st Sess., July 31, 1975.

§ 9.7 The Speaker is not required to recognize Members for scheduled "special order" speeches immediately upon completion of legislative business—as he may continue to recognize other Members for unanimous-consent requests and permissible motions. 121 CONG. REC. 26251, 94th Cong. 1st Sess., July 31, 1975.

B. MOTIONS TO SUSPEND THE RULES

§ 10. In General; Effect of Motion

§ 10.1 A motion to suspend the rules (Rule XXVII) and pass a bill operates to suspend or waive all rules in conflict with the motion. Thus, a point of order will not lie against consideration of the bill on the ground that the committee report on the bill is unavailable (114 CONG. REC. 26965, 90th Cong. 2d Sess., Sept. 16, 1968) or on the grounds that the bill should have been considered by a committee to which it was not referred or that consideration of the bill is prohibited by provisions of existing law enacted under the rulemaking power of the House. 123 CONG. REC. 36309-11, 95th Cong. 1st Sess., Nov. 1, 1977 [H.R. 9282], where a point of order against consideration under suspension of the rules of a bill (on the ground that section 306 of the Congressional Budget Act precluded its consideration in either House unless reported by certain committees), was overruled. On the other hand, although the Speaker has discretion to recognize for a motion to suspend the rules and pass legislation, and although suspension of the rules suspends any rule which would prohibit the consideration of legislation considered under that procedure, the Speaker has declined, as a matter of policy, to recognize for a motion to suspend the rules and pass legislation which violates the Congressional Budget Act. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 5, 1979 [H.R. 4136]. *Note:* The bill amended the Child Nutrition act of 1966 and provided new entitlement authority for years for which a concurrent resolution on the budget had not yet been adopted, in violation of § 303(a)(4) of the Budget Act.

§ 10.2 Where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee, since the motion to suspend the rules and pass the bill has the effect of suspending all rules in conflict with the motion. 114 CONG. REC. 29764, 90th Cong. 2d Sess., Oct. 7, 1968; 114 CONG. REC. 27029, 90th Cong. 2d Sess., Sept. 16, 1968 [H.R. 19136, relating to overtime pay for employees in the Department of Transportation].

§ 10.3 The Speaker has indicated that a point of order will not lie against a provision transferring funds in violation of Rule XXI clause 5 contained in a bill being considered under a motion to suspend the rules. 117 CONG. REC. 36507, 92d Cong. 1st Sess., Oct. 18, 1971 [H.J. Res. 923, relating to lunches for needy schoolchildren].

§ 10.4 The motion to suspend the rules is sometimes used to expedite the passage of emergency legislation. Thus, the House agreed to suspend the rules and pass a joint resolution extending for 20 days the period of negotiation under the Railway Labor Act, thereby averting a threatened railway strike deadline less than 48 hours away. 113 CONG. REC. 8987-90, 90th Cong. 1st Sess., Apr. 11, 1967.

§ 10.5 On motion of the majority leader, the House agreed to suspend the rules and pass a bill increasing the salary of the President, although the bill had not been considered in committee. 115 CONG. REC. 172-176, 91st Cong. 1st Sess., Jan. 6, 1969.

§ 10.6 A resolution may be submitted from the floor and immediately considered under suspension of the rules without referral to committee. 108 CONG. REC. 19610, 19614, 87th Cong. 2d Sess., Sept. 17, 1962.

§ 10.7 The Speaker has recognized a Member to move to suspend the rules and pass a Senate bill similar to a House bill which had been previously announced for consideration under the suspension procedure. 110 CONG. REC. 5291, 88th Cong. 2d Sess., Mar. 16, 1964 [S. 2448, amending the Atomic Energy Act of 1954].

§ 10.8 A motion to suspend the rules and pass a bill may, by unanimous consent, be withdrawn after there had been debate on the motion and the Speaker had put the question on its adoption. 109 CONG. REC. 7813, 7815, 88th Cong. 1st Sess., May 6, 1963 [H.R. 101, relating to definition of "peanuts" under Agricultural Adjustment Act]. Also, the House may by unanimous consent, but not by motion, postpone further consideration of a pending motion to suspend the rules, if the Chair recognizes for that purpose. 124 CONG. REC. 15747, 95th Cong. 2d Sess., May 31, 1978.

§ 10.9 A resolution providing for concurrence in nongermane Senate amendments to a House bill was passed under suspension of the rules. 120 CONG. REC. 5285, 5290, 93d Cong. 2d Sess., Mar. 5, 1974 [H. Res. 947].

§ 10.10 If recognized for that purpose, a Member may move to suspend the rules and pass a bill with amendments; the fact that the amendments have not been considered or adopted by a committee does not prevent their consideration. 121 CONG. REC. 9203, 9204, 9213, 94th Cong. 1st Sess., Apr. 8, 1975 [H.R. 3922, the Older Americans Act].

§ 10.11 The rules and precedents of the House require no advance notice to Members of bills called up under suspension. 124 CONG. REC. 7535, 95th Cong. 2d Sess., Mar. 20, 1978 [H.R. 11274]. And copies of reports on bills considered under suspension of the rules are not required to be available in advance. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 21, 1979 [H.R. 3897].

§ 11. When in Order

§ 11.1 The 93d Congress adopted rules with an amendment of clause 1 Rule XXVII to authorize the Speaker to recognize for motions to suspend the rules on the first and third Mondays of each month and on the Tuesdays immediately following those Mondays, and eliminating the distinction between committee motions and motions by Members. 119 CONG. REC. 17, 26, 27, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 6, adopting the rules of the House for the 93d Congress]. In the 95th Congress, the House amended Rule XXVII clause 1 to permit motions to suspend the rules on every Monday and Tuesday. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5].

§ 11.2 The applicable rule (clause 1 Rule XXVII) specifies the days of the month on which the motion is in order; however, by unanimous consent, it may be made in order for the Speaker to recognize a Member on any given day to move to suspend the rules and pass a bill. 105 CONG. REC. 14475, 86th Cong. 1st Sess., July 28, 1959 [H.J. Res. 475, making temporary appropriations for fiscal 1960, was passed under suspension on July 29, 1959].

§ 11.3 The House by resolution may authorize the Speaker to recognize for motions to suspend the rules on a day other than that provided by Rule XXVII. 107 CONG. REC. 16562, 87th Cong. 1st Sess., Aug. 21, 1961. See 120 CONG. REC. 38169, 93d Cong. 2d Sess., Dec.

4, 1974, in which a resolution was reported from the Committee on Rules, authorizing the Speaker to entertain motions to suspend the rules on the second Monday and on any subsequent day during the remainder of the session [H. Res. 1483].

§ 11.4 By unanimous consent, the House may authorize the Speaker to recognize for a motion to suspend the rules and pass a particular bill on a date not specified as a regular suspension day under Rule XXVII. 112 CONG. REC. 2292, 89th Cong. 2d Sess., Feb. 7, 1966; 113 CONG. REC. 8729, 90th Cong. 1st Sess., Apr. 10, 1967; 118 CONG. REC. 27532, 92d Cong. 2d Sess., Aug. 9, 1972.

§ 11.5 The Speaker has been authorized to recognize for suspensions during the remainder of the session. 105 CONG. REC. 19128, 86th Cong. 1st Sess., Sept. 11, 1959.

§ 11.6 By unanimous consent, the Speaker was given authority to recognize for motions to suspend the rules and pass certain bills on a date to be agreed upon by himself and the majority and minority leaders. 110 CONG. REC. 19943, 88th Cong. 2d Sess., Aug. 17, 1964.

§ 11.7 The Speaker has been authorized, by unanimous consent, to recognize for motions to suspend the rules and pass certain bills listed on the whip notice but not reached on the regular suspension day. 115 CONG. REC. 39046, 91st Cong. 1st Sess., Dec. 15, 1969.

§ 11.8 Pursuant to clause 1 Rule XXVII, it is in order during the "last six days" of a session for the Speaker to recognize for motions to suspend the rules. 116 CONG. REC. 44170, 44176, 91st Cong. 2d Sess., Dec. 30, 1970. The "last six days" are not applicable until both Houses have agreed to a concurrent resolution establishing a date for *sine die* adjournment (or until the final six days of a session under the Constitution). 118 CONG. REC. 33501, 92d Cong. 2d Sess., Oct. 3, 1972.

§ 12. Recognition to Offer Motion

§ 12.1 It is within the discretion of the Speaker to recognize for motions to suspend the rules (124 CONG. REC. p. ....., 95th Cong. 2d Sess., Mar. 20, 1978), and in the exercise of such discretion he may decline to recognize a Member to so move. 120 CONG. REC. 5316, 93d Cong. 2d Sess., Mar. 5, 1974. The Speaker may, for example, decline to extend recognition to a Member to so move following refusal of the House to consider an initial suspension motion. 123 CONG. REC. p. ....., 95th Cong. 1st Sess., Nov. 1, 1977. But the rejection of a motion to suspend the rules and agree to a resolution does not preclude the Speaker from exercising his discretionary authority to recognize a Member to offer a similar resolution under the suspension procedure (§ 12.3, infra).

§ 12.2 The Majority Leader has offered a motion to suspend the rules and agree to a resolution authorizing the Speaker to declare recesses for the remainder of the session. 116 CONG. REC. 43069, 91st Cong. 2d Sess., Dec. 21, 1970. [The motion was withdrawn following a point of order that a quorum was not present.]

§ 12.3 Rejection of a motion to suspend the rules and agree to a resolution does not preclude the Speaker from exercising his discretionary authority to recognize a Member to offer a similar resolution under suspension of the rules. 119 CONG. REC. 43271, 43281, 43284, 43285, 93d Cong. 1st Sess., Dec. 21, 1973. The House having rejected a motion to suspend the rules and agree to a resolution which would have amended a Senate amendment to a House amendment to a Senate bill on the Speaker's table, the Speaker again recognized the Chairman of the Committee on Interstate and Foreign Commerce to offer a similar motion proposing a different amendment (text of another House bill) to the Senate amendment.

§ 12.4 If the Speaker, in his discretion and pursuant to Rule XXVII clause 3(b), postpones all recorded votes on motions to suspend the rules until all such motions on that legislative day have been entertained and debate thereon concluded, the Speaker may thereafter recognize for additional motions to suspend the rules only by unanimous consent. 121 CONG. REC. 40802, 94th Cong. 1st Sess., Dec. 16, 1975.

§ 12.5 The Speaker, at his discretion, may recognize Members to move to suspend the rules without utilizing the procedure for postponing votes under Rule XXVII clause 3, thereby retaining his authority to continue to recognize for further motions to suspend the rules later that day following the completion of action on "scheduled" suspension motions. 121 CONG. REC. 40802, 94th Cong. 1st Sess., Dec. 16, 1975.

§ 13. Seconding the Motion

§ 13.1 Clause 2 Rule XXVII provides that all motions to suspend the rules shall be seconded by a majority (of those present and voting) by tellers, if demanded by any Member, before being submitted to the House. See 118 CONG. REC. 23415, 92d Cong. 2d Sess., June 29, 1972 [H.R. 14896]; 121 CONG. REC. 37032, 94th Cong. 1st Sess., Nov. 18, 1975. In 1979, Rule XXVII clause 2 was amended to provide that a second shall not be required on a motion to suspend the rules where printed copies of the proposed measure or matter have been available for one legislative day before the motion is considered. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. The need for a second is eliminated by the rule where copies of the bill as proposed to be passed under suspension have been available for the required time, whether or not the bill has been reported. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 21, 1979 [H.R. 3897].

§ 13.2 Under clause 2 Rule XXVII, the failure of a majority to order a second by tellers precludes consideration of the motion to suspend the rules. 119 CONG. REC. 43251-62, 93d Cong. 1st Sess., Dec. 21, 1973 [H. Res. 759]. 123 CONG. REC. 31051, 95th Cong. 1st Sess., Sept. 27, 1977 [H.R. 2664].

§ 13.3 While clause 2 Rule XXVII requires the vote on seconding a motion to suspend the rules to be taken by tellers and precludes the demand for a recorded vote, the failure of a quorum to vote by tellers on ordering a second may precipitate an automatic ordering of the yeas and nays under clause 4 Rule XV. 119 CONG. REC. 43251-62, 93d Cong. 1st Sess., Dec. 21, 1973 [H. Res. 759]. 123 CONG. REC. 31051, 95th Cong. 1st Sess., Sept. 27, 1977 [H.R. 2664]; 123 CONG. REC. 35006, 95th Cong. 1st Sess., Oct. 25, 1977 [H.R. 7442].

§ 13.4 When objection is raised to a unanimous-consent request that a second be considered as ordered on a motion to suspend the rules and pass a bill, the Chair immediately appoints tellers on the question of a second, not on the suspension and passage of the bill. 105 CONG. REC. 17600, 17612, 86th Cong. 1st Sess., Sept. 1, 1959. 123 CONG. REC. 31051, 95th Cong. 1st Sess., Sept. 27, 1977 [H.R. 2664].

§ 13.5 Where a second by tellers has been demanded on a motion to suspend the rules and agree to a resolution, the resolution may be reread to the House only by unanimous consent. 119 CONG. REC. 43251-61, 93d Cong. 1st Sess., Dec. 21, 1973, where the House rejected a motion to suspend the rules and agree to a resolution which would have amended a Senate amendment to a House amendment to a Senate bill on the Speaker's table.

§ 13.6 The ordering of a second on a motion to suspend the rules is such a decision as precludes withdrawal of the motion as a matter of right under Rule XVI clause 2. Therefore, after a second has been demanded and ordered

on a motion to suspend the rules, the motion may then be withdrawn only by unanimous consent. 121 CONG. REC. 40811-14, 94th Cong. 1st Sess., Dec. 16, 1975; 123 CONG. REC. 13935, 95th Cong. 1st Sess., May 9, 1977 [H.R. 5562]; 123 CONG. REC. 17493, 95th Cong. 1st Sess., June 6, 1977 [H.R. 6794].

§ 14. — Recognition to Demand a Second

§ 14.1 In recognizing a Member to demand a second on a motion to suspend the rules and pass a bill, the Speaker gives preference to a Member who qualifies as being opposed to the bill. 105 CONG. REC. 13718, 86th Cong. 1st Sess., July 20, 1959; 108 CONG. REC. 17670, 87th Cong. 2d Sess., Aug. 27, 1962; 109 CONG. REC. 19947, 88th Cong. 1st Sess., Oct. 21, 1963; 111 CONG. REC. 20689, 89th Cong. 1st Sess., Aug. 17, 1965; 117 CONG. REC. 44947-51, 92d Cong. 1st Sess., Dec. 6, 1971.

§ 14.2 In recognizing a Member to demand a second on a motion to suspend the rules, the Speaker does not distinguish between a Member opposed to the bill "in its present form" and a Member unqualifiedly opposed. 118 CONG. REC. 2881, 92d Cong. 2d Sess., Feb. 7, 1972 [S. 1857].

§ 14.3 A minority member opposed to a motion to suspend the rules is recognized to demand a second over a majority member. 119 CONG. REC. 43285, 93d Cong. 1st Sess., Dec. 21, 1973.

§ 14.4 Where two minority members rise to demand a second on a motion to suspend the rules and both qualify as being opposed to the bill, the Speaker recognizes the Member with the most seniority in the House if neither is a member of the committee reporting the bill. 118 CONG. REC. 2881, 92d Cong. 2d Sess., Feb. 7, 1972 [S. 1857].

§ 14.5 In recognizing a Member to demand a second on a motion to suspend the rules and pass a bill, the Speaker gives preference to a majority member opposed to the bill over a minority member who does not qualify as being opposed. 111 CONG. REC. 24347, 89th Cong. 1st Sess., Sept. 20, 1965; 116 CONG. REC. 43087, 91st Cong. 2d Sess., Dec. 21, 1970 [H.R. 14233].

§ 14.6 The Member demanding the second and not the Member objecting to a unanimous-consent request that a second be considered as ordered is entitled to recognition for debate against the motion to suspend the rules and pass a bill. 105 CONG. REC. 17600, 17611, 86th Cong. 1st Sess., Sept. 1, 1959.

§ 14.7 Requests for recognition to demand a second on a motion to suspend the rules comes too late after a second has been ordered. 107 CONG. REC. 7988-91, 87th Cong. 1st Sess., May 15, 1961; 113 CONG. REC. 11282, 90th Cong. 1st Sess., May 1, 1967, holding that a request for recognition to demand a second on a motion to suspend the rules comes too late after the second has been considered as ordered.

§ 14.8 The Speaker accords priority of recognition to demand a second on a motion to suspend the rules to a minority member of the committee reporting the bill who qualifies as being opposed to the motion. 122 CONG. REC. 31328, 31333, 94th Cong. 2d Sess., Sept. 20, 1976 [H.R. 14319].

§ 15. Time for Debate on the Motion

§ 15.1 Debate on a motion to suspend the rules, a second having been ordered, is limited to 40 minutes—20 minutes controlled by the mover and 20 minutes controlled by the Member demanding a second. 105 CONG. REC. 12306, 86th Cong. 1st Sess., June 30, 1959.

§ 15.2 The House, by unanimous consent, and pursuant to a timely request, may extend to one hour and 20 minutes the time for debate on a motion to suspend the rules and pass a bill. 106 CONG. REC. 4388, 86th Cong. 2d Sess., Mar. 3, 1960.

§ 15.3 After the motion to suspend the rules and pass a bill has been seconded and the Chair has recognized a member of the majority and a member of the minority to control the 20 minutes allotted to each under clause 3 Rule XXVII, the Chair refused to entertain a unanimous-consent request for any additional allotment of time to those opposed to the measure. 109 CONG. REC. 19953, 88th Cong. 1st Sess., Oct. 21, 1963 [H.R. 8667]. In one instance in the 94th Congress, the Chair indicated that he would not entertain a unanimous-consent request to extend the 40 minutes of debate permitted under Rule XXVII clause 3, on a motion to suspend the rules. 122 CONG. REC. 19679, 94th Cong. 2d Sess., June 22, 1976. *Note:* Although unanimous-consent requests may be entertained to extend time for debate on the suspension of the rules, the Speaker himself may indicate his objection to such a request by declining to recognize.

§ 15.4 Under clause 3 Rule XXVII, the Member making a motion to suspend the rules and the Member demanding a second are each entitled to 20 minutes of debate, and the Speaker will first recognize the mover of the motion to consume as much of his time as he desires. 116 CONG. REC. 40014, 91st Cong. 2d Sess., Dec. 7, 1970 [H. Res. 1282]. In one instance, where an additional five minutes of debate had been permitted (by unanimous consent) on motions to suspend the rules on which the yeas and nays had been ordered, and debate implicitly divided between proponents and opponents of each motion, the Chair recognized the original proponent of the motion and the Member originally recognized to demand a second thereon where no challenge to that Member had been made when the second was demanded. 124 CONG. REC. 30197, 95th Cong. 2d Sess., Sept. 19, 1978.

§ 15.5 Where the Member who demands a second on a motion to suspend the rules has been recognized for 20 minutes of debate, it is customary for the Speaker to recognize the Member making the motion to conclude the debate with any time remaining to him. 116 CONG. REC. 44174, 91st Cong. 2d Sess., Dec. 30, 1970 [S. 4268].

§ 15.6 A Member may not speak to a motion to suspend the rules and pass a bill unless time is yielded to him by the mover or the Member demanding a second. 105 CONG. REC. 10810, 86th Cong. 1st Sess., June 15, 1959 [H.R. 7650].

§ 15.7 Where a Member states that he is opposed to a motion to suspend the rules, he qualifies to control the time in opposition to the motion; and the Chair questions neither his motives nor his allocation of the time. 115 CONG. REC. 39029, 39034, 91st Cong. 1st Sess., Dec. 15, 1969 [H.R. 14646]. Compare 116 CONG. REC. 12415, 91st Cong. 2d Sess., Apr. 20, 1970 [H.R. 10666], where by unanimous consent, the 20 minutes' debate time allotted a Member demanding a second on a motion to suspend the rules was transferred to another Member.

§ 15.8 A point of order will not lie against the manner in which time under a motion to suspend the rules is allocated by the mover or the Member demanding a second; for alternation of recognition is not required and it is not within the province of the Chair to assure an equal division of time between the proponents and opponents of the motion. 115 CONG. REC. 39029, 39034, 91st Cong. 1st Sess., Dec. 15, 1969 [H.R. 14646], indicating that while the Member demanding a second on a motion to suspend the rules and pass a bill is ordinarily opposed to the bill, it does not follow that he must yield his time only to Members opposed to the bill.

§ 15.9 Where a Member moving to suspend the rules uses a portion of the 20 minutes available to him for debate, and then yields "the balance of his time" to another who does not, in fact, consume all the remaining time, the unused time reverts to the mover who may continue debate. 112 CONG. REC. 22927, 22933, 89th Cong. 2d Sess., Sept. 19, 1966.

§ 16. Amendments to Propositions Under Suspension

§ 16.1 A proposition being considered under suspension of the rules is not subject to amendment from the floor. 118 CONG. REC. 8987, 8989, 92d Cong. 2d Sess., Mar. 20, 1972 [H.R. 4174]; 118 CONG. REC. 12931, 92d Cong. 2d Sess., Apr. 17, 1972 [H. Con. Res. 471]; 119 CONG. REC. 43251-63, 43269, 43270, 93d Cong. 1st Sess., Dec. 21, 1973 [H. Res. 759].

§ 16.2 Only those amendments included in a motion to suspend the rules and pass a bill are in order to a bill being considered under that procedure. The Member making that motion may not yield to other Members for further amendment. 117 CONG. REC. 36507, 92d Cong. 1st Sess., Oct. 18, 1971 [H.J. Res. 923]. And the Speaker will not entertain a unanimous-consent request to permit floor amendments to be offered. 118 CONG. REC. 2881, 92d Cong. 2d Sess., Feb. 7, 1972. [S. 1857].

§ 16.3 Pro forma amendments are not in order when a bill is being considered under suspension of the rules. 105 CONG. REC. 18436-38, 86th Cong. 1st Sess., Sept. 7, 1959.

§ 16.4 Since the motion to suspend the rules and pass a bill is not subject to amendment or to disposition by other motions, a motion to strike out the enacting clause is not in order. 105 CONG. REC. 10810, 86th Cong. 1st Sess., June 15, 1959 [H.R. 7650, to modify pension programs for veterans, etc.].

§ 16.5 In one instance in the 95th Congress, after a Member's motion to suspend the rules and pass a bill had been offered and seconded, he sought unanimous consent to include an amendment to the bill in his motion; after objection was heard, the Speaker indicated that the motion could be withdrawn only by unanimous consent. 123 CONG. REC. 17491, 17493, 95th Cong. 1st Sess., June 6, 1977 [H.R. 6794].

§ 16.6 Where a motion was made to suspend the rules and pass a bill "as amended," and the reported bill contained two different amendments in the nature of a substitute recommended by the two reporting committees, the Chair interpreted the motion as proposing to pass the bill as amended by the last committee that had reported the bill (since the marked copy of the proposed bill so indicated). 124 CONG. REC. 33262, 95 Cong. 2d Sess., Oct. 3, 1978 [H.R. 13650].

§ 17. Voting on the Motion

§ 17.1 A two-thirds vote is required for suspension of the rules (clause 1 Rule XXXII). And unanimous consent for the consideration of a bill under suspension does not waive the two-thirds vote requirement for the passage of the bill. 118 CONG. REC. 22562, 92d Cong. 2d Sess., June 27, 1972.

§ 17.2 Under an amendment of clause 3 Rule XXVII, the Speaker, before entertaining motions to suspend the rules, is authorized to announce that he will postpone further proceedings on each such motion on which a recorded vote or the yeas and nays is ordered or on which the vote is objected to for lack of a quorum, until all of such motions on that legislative day have been entertained and any debate thereon concluded. After disposing of motions not postponed, the Speaker then puts the question on each motion on which further proceedings were postponed. After the vote on the question has been taken on the first

postponed motion the Speaker may, in his discretion, reduce to not less than five minutes the period of time within which a recorded vote on the question may be taken on any or all of the additional motions on which he has postponed further proceedings. 120 CONG. REC. 10195-99, 93d Cong. 2d Sess., Apr. 9, 1974 [H. Res. 998, amending the rules of the House]. In the 96th Congress, Rule XXVII clause 3 was further amended to permit the Speaker to postpone "clustered" record votes on suspension motions as unfinished business on the next legislative day, rather than merely on the day the motion was debated. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5].

§ 17.3 During consideration of a motion to suspend the rules and pass a bill it is not in order to demand a separate vote on amendments submitted with the text of the bill when sent to the desk. 114 CONG. REC. 29800, 90th Cong. 2d Sess., Oct. 7, 1968 [during consideration of the motion to suspend the rules and pass H.R. 19910, amending the Agricultural Adjustment Act, with amendments].

§ 17.4 The Speaker directed the Clerk to call his name on a roll call vote, and his vote enabled a bill to receive the two-thirds necessary for passage under suspension of the rules. 118 CONG. REC. 33219, 92d Cong. 2d Sess., Oct. 2, 1972 [H.R. 15859, Emergency Medical Services Act of 1972].

§ 17.5 The Speaker voted on a motion to suspend the rules and pass a bill where the vote, as reported to him by the tally clerk, was very close, and subject to reversal if an error appeared in rechecking the tally. 113 CONG. REC. 31287, 90th Cong. 1st Sess., Nov. 6, 1967 [S.J. Res. 33, establishing a National Commission on Product Safety].

§ 17.6 The Speaker has the discretionary authority under Rule XXVII clause 3(b) to announce that further proceedings on motions to suspend the rules, on which record votes have been ordered or the votes objected to for lack of a quorum, will be postponed until the conclusion of all other suspension business that legislative day. 120 CONG. REC. 17521, 93d Cong. 2d Sess., June 4, 1974. However, since Rule XXVII clause 3(b)(1) only authorizes the Speaker to announce *before the first suspension motion is entertained* on a legislative day that he will postpone record votes on all such motions on that day, unanimous consent is required for the Speaker to postpone record votes on suspension motions once one or more motions to suspend have been disposed of on that day prior to his announcement. 124 CONG. REC. 13580, 95th Cong. 2d Sess., May 15, 1978.

§ 17.7 It is too late to demand a recorded vote on a motion to suspend the rules immediately after the Speaker has, pursuant to Rule XXVII clause 3(b), announced that further proceedings on that motion have been postponed. 120 CONG. REC. 19334, 93d Cong. 2d Sess., June 17, 1974.

§ 17.8 It is not in order to demand a recorded vote on a motion to suspend the rules where the Speaker has postponed further proceedings on the motion by reason of objection to the vote for lack of a quorum, until that motion is before the House as unfinished business. 120 CONG. REC. 19334, 93d Cong. 2d Sess., June 17, 1974.

§ 17.9 Where objection is made to a vote on a motion to suspend the rules on the ground that a quorum is not present, and the Chair has, pursuant to Rule XXVII clause 3(b), announced that further proceedings on that motion are postponed until completion of debate on all subsequent suspension motions on that day, it is then too late to demand the yeas and nays on that motion (until the Chair later puts the question as unfinished business). 121 CONG. REC. 33004, 33005, 94th Cong. 1st Sess., Oct. 20, 1975 [H.R. 9924]. However, the demand might be entertained if by unanimous

consent the proceedings whereby the vote was postponed under the point of order were vacated. 122 CONG. REC. 6417, 6418, 94th Cong. 2d Sess., Mar. 15, 1976 [H.R. 7743].

§ 17.10 At the conclusion of debate on all motions to suspend the rules on a legislative day, the Speaker announces that he will put the question on each motion on which further proceedings had been postponed—either de novo if objection to the vote had been made under Rule XV clause 4, or for a recorded or yea and nay vote if previously ordered by the House—in the order in which the motions had been entertained. 120 CONG. REC. 17546, 17547, 93d Cong. 2d Sess., June 4, 1974.

§ 17.11 Where the yeas and nays have been ordered on a motion to suspend the rules and pass a bill and the Speaker has, pursuant to Rule XXVII clause 3, announced that further proceedings on the motion would be postponed until the completion of all suspension business on that legislative day, the vote is taken by electronic device without further request from the floor when that unfinished business is in order. 120 CONG. REC. 26757, 26758, 26812, 93d Cong. 2d Sess., Aug. 5, 1974 [S. Con. Res. 72]. Where the House refuses to order the yeas and nays on a motion to suspend the rules, and further proceedings on the motion are then postponed under Rule XXVII clause 3(b) after an objection to the vote for lack of a quorum, the Speaker puts the question de novo when the motion comes up as unfinished business, but a demand for the yeas and nays cannot be repeated. 123 CONG. REC. 22487, 22488, 95th Cong. 1st Sess., July 12, 1977 [H.R. 6893]. A demand for a division vote may be renewed, even though a division vote has already been taken, when the question is put de novo. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 18, 1980 [H.R. 6331].

§ 17.12 By unanimous consent, the provisions of Rule XXVII clause 3(b), which permit the Speaker in his discretion to postpone record votes on all motions to suspend the rules until the completion of suspension business on a legislative day, were waived to permit the House to vote separately on the first motion immediately after debate thereon before the Speaker announced that votes on subsequent motions would be postponed. 120 CONG. REC. 40877, 40878, 93d Cong. 2d Sess., Dec. 18, 1974.

§ 17.13 Following the first postponed vote on motions to suspend the rules pursuant to Rule XXVII clause 3(b)(3), the Speaker may in his discretion reduce to not less than five minutes the time for taking votes on any or all of the subsequent motions on which votes have been postponed. 120 CONG. REC. 17546, 17547, 93d Cong. 2d Sess., June 4, 1974. Where at the end of a series of such five-minute votes the House by unanimous consent vacated proceedings on the passage of a bill by voice vote under suspension of the rules, the Speaker continued to utilize the reduced time period when the yeas and nays were ordered after the question was put de novo. 122 CONG. REC. 22878, 94th Cong. 2d Sess., July 20, 1976 [H.R. 14291].

§ 17.14 A separate vote is not permitted on an amendment contained in a motion to suspend the rules and pass a bill as amended, and any amendment contained in the motion is in order (if the Speaker recognizes for that purpose in his discretion) and need not have been formally recommended by the committee handling the bill. 121 CONG. REC. 40811-14, 94th Cong. 1st Sess., Dec. 16, 1975 [S. 848]. 123 CONG. REC. 30948, 95th Cong. 1st Sess., Sept. 26, 1977 [H.R. 6693].

§ 17.15 Where the Speaker postpones further proceedings on a motion to suspend the rules, the question is no longer being put to a vote for purposes of permitting a point of order of no quorum until the question recurs as unfinished business. 123 CONG. REC. 30948, 95th Cong. 1st Sess., Sept. 26, 1977. Pursuant to Rule XV clause 6(e), prohibiting a point of order of no quorum unless the Speaker has put

the pending proposition to a vote, the Speaker announces, after postponing a vote on a motion to suspend the rules where objection has been made to the vote on the grounds that a quorum is not present, that the point of order is considered as withdrawn (since the question is no longer being put). 123 CONG. REC. 14785, 95th Cong. 1st Sess., May 16, 1977 [H.R. 3849]. *Note:* Before the amendment to Rule XV, effective in the 95th Congress, the Speaker was required, after postponing a vote on a motion to suspend the rules where a Member made the point of order that a quorum was not present and objected to the vote on the grounds that a quorum was not present, to request the Member making the point of order to withdraw it. In the event the point of order was not withdrawn, a call of the House was necessary, a result no longer in order under Rule XV clause 6(e).

§ 17.16 While a unanimous-consent request to send a Senate bill with House amendments to conference is normally made immediately following House passage of the Senate bill as amended, where the bill has been passed under suspension of the rules and the Speaker has postponed votes on other suspension motions which are the unfinished business immediately following that vote, the request to send the bill to conference may be made after completion of all votes under suspension of the rules, in order to preclude debate and a vote on a motion to instruct conferees from interrupting the consecutive five-minute votes on suspension motions. 123 CONG. REC. 38007, 95th Cong. 1st Sess., Oct. 25, 1977 [S. 1585].

§ 17.17 Where several motions to suspend the rules on which the yeas and nays had been ordered were, by unanimous consent, made the unfinished business on a subsequent day with five additional minutes of debate on each motion, to precede any roll call votes on suspension motions considered on that day, the Chair, pursuant to his discretionary authority under Rule XXVII clause 3(b), reduced to five minutes the time for all roll call votes following the first 15-minute vote, notwithstanding the intervening debate on the first several motions. 124 CONG. REC. 30194, 95th Cong. 2d Sess., Sept. 19, 1978.

§ 17.18 Where the Chair had announced pursuant to Rule XXVII clause 3(b)(3) that Members would have five minutes to record their votes by electronic device on a postponed recorded vote on a motion to suspend the rules, and the tally clerk had inadvertently set the clock for the vote at 15 minutes, the Chair directed the Clerk to terminate the vote after five minutes and announced that Members would be permitted an additional minute due to the confusion to record their votes by card in the well. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 16, 1979 [H.R. 3641].

C. SPECIAL "RULES" OR ORDERS

§ 18. Power of Rules Committee Generally

§ 18.1 *Note:* The Committee on Rules has jurisdiction, under clause 18(a) Rule XI, over the rules and order of business of the House. The right of this committee to report resolutions varying the order of business and providing the method whereby a measure shall be considered is unlimited, except where expressly restricted by the rules of the House.

§ 18.2 The rules of the House give the Committee on Rules the authority to report resolutions providing for special orders of business; and a point of order does not lie against such a resolution because its adoption would have the effect of abrogating another standing rule of the House. 113 CONG. REC. 34032, 90th Cong. 1st Sess., Nov. 28, 1967 [H. Res. 985], holding

that a resolution pertaining to the order of business, reported by the Committee on Rules pursuant to Rule XI, is not subject to a point of order on the ground that its adoption would preclude consideration by the Committee of the Whole, under Rule XX clause 1, of a particular Senate amendment.

§ 18.3 It is for the House, and not the Chair, to decide upon the efficacy of adopting a special rule which has the effect of setting aside the standing rules of the House insofar as they impede the consideration of a particular bill. 113 CONG. REC. 34038, 90th Cong. 1st Sess., Nov. 28, 1967 [H. Res. 985, providing for concurring in Senate amendments to H.R. 2275].

§ 18.4 Only a majority vote is required for the adoption of a resolution reported by the Committee on Rules relating to order of business; but two-thirds of the House must agree to consideration of a resolution on the same day that it is reported except during last three days of a session. 108 CONG. REC. 16759, 87th Cong. 2d Sess., Aug. 16, 1962 [H. Res. 763, providing for consideration of H.R. 12333]. See also 117 CONG. REC. 37765, 37768, 92d Cong. 1st Sess., Oct. 27, 1971 [H. Res. 661, providing for consideration of H.R. 7248], where the Speaker indicated that a majority vote and not a two-thirds vote would be required for the adoption of a resolution reported by the Committee on Rules providing a special order of business, despite provisions in that resolution which were inconsistent with the standing rules and procedures of the House.

§ 18.5 An amendment to Rule XI restricting the power of the Committee on Rules to report a "closed" rule was held to change the jurisdiction of the Committee on Rules, which, under clause 18 Rule XI, may report on "rules, joint rules, and order of business", and was therefore ruled out of order as in violation of the resolution under which the amendment was being considered. 116 CONG. REC. 26414, 91st Cong. 2d Sess., July 29, 1970 [H.R. 17654, Legislative Reorganization Act of 1970].

§ 18.6 The Committee on Rules, under Rule XI clause 4, has authority to report and call up as privileged resolutions temporarily waiving any rule of the House—including statutory provisions enacted pursuant to the rule-making authority of the House. 121 CONG. REC. 7676–78, 94th Cong. 1st Sess., Mar. 20, 1975 [H. Res. 337]; 121 CONG. REC. 8418, 94th Cong. 1st Sess., Mar. 24, 1975 [H. Res. 352].

§ 18.7 A resolution was reported from the Committee on Rules, providing for consideration in the House under the hour rule of a concurrent resolution reported from the Committee on Appropriations. 120 CONG. REC. 35431, 35438, 93d Cong. 2d Sess., Oct. 11, 1974 [H. Res. 1437, providing for consideration of H. Con. Res. 667]. In the 96th Congress, the Committee on Rules reported a special rule providing for consideration of a concurrent resolution under the Trade Act of 1974, providing for its immediate consideration in Committee of the Whole (thereby eliminating the motion to postpone consideration) but permitting one motion to limit debate. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 24, 1980 [H. Res. 529].

§ 18.8 A resolution reported from the Committee on Rules was withdrawn after being called up for consideration. 121 CONG. REC. 12118, 94th Cong. 1st Sess., Apr. 29, 1975 [H. Res. 425, waiving points of order against consideration of a conference report on H.R. 6096].

§ 18.9 While it is always in order to call up for consideration a resolution reported from the Committee on Rules relating to the order of business, it may not be considered on the same day reported unless so determined by a vote of not less than two-thirds of the Members voting, a quorum being present. 121 CONG. REC. 25826, 94th Cong. 1st Sess., July 30, 1975 [H. Res. 653]; 121 CONG. REC. 36638–

41, 94th Cong. 1st Sess., Nov. 14, 1975 [H. Res. 866].

§ 18.10 The House adopted a privileged resolution reported from the Committee on Rules: (1) permitting for the remainder of the session consideration of reports from that committee on the same day reported without a two-thirds vote; and (2) authorizing the Speaker to declare recesses subject to the call of the Chair. 120 CONG. REC. 41571, 41572, 93d Cong. 2d Sess., Dec. 19, 1974.

§ 18.11 The House rejected a motion offered by the Majority Leader to suspend the rules and agree to a resolution waiving for the remainder of the session the three-day layover rule for consideration of conference reports and the requirement of a two-thirds vote to consider reports from the Committee on Rules the same day reported. 120 CONG. REC. 40129, 40170, 40171, 93d Cong. 2d Sess., Dec. 16, 1974 [H. Res. 1509].

§ 18.12 A resolution was reported from the Committee on Rules providing for consideration of another resolution, reported from that committee, in the House as in the Committee of the Whole. 123 CONG. REC. 9554, 95th Cong. 1st Sess., Mar. 30, 1977 [H. Res. 445, providing for consideration of H. Res. 433, providing for the continuation of the Select Committee on Assassinations].

§ 18.13 Although Jefferson's Manual states that once a bill has been rejected another of the same substance cannot be brought in again during the same session (§ 515), the Committee on Rules may report as privileged a resolution (1) making in order the consideration of a measure of the same substance as one previously rejected and (2) vacating the action whereby the House had rejected the previous measure. 122 CONG. REC. 6776, 94th Cong. 2d Sess., Mar. 17, 1976 [H. Res. 1086, providing for consideration of H. Con. Res. 580].

§ 18.14 Where a special rule providing for the consideration of a matter in the House states that the previous question shall be considered as ordered thereon without intervening motion, and does not simply state that the previous question be considered as ordered after debate, the previous question is considered as ordered from the beginning of the debate, precluding the consideration of any intervening motion, such as the motion to postpone. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 12, 1980. Compare 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 26, 1980 [H. Res. 619], where the previous question was ordered "after debate," thus permitting intervening motions under Rule XVI clause 4.

§ 19. Providing for Consideration of Measures; "Open" and "Closed" Rules

Generally

§ 19.1 *Note:* Special rules frequently provide for a certain number of hours of general debate on a bill in the Committee of the Whole, to be equally divided and controlled by the chairman and ranking minority member of the committee which has reported the bill. Special rules may also contain provisions specifying the kind or number of amendments that may be offered to the bill, or affecting the motions that may be raised concerning it.

§ 19.2 Where a committee amendment in the nature of a substitute was being considered as an original bill under a special rule permitting points of order to be "properly raised against any title, part or section . . . within the jurisdiction of any other standing committee", the Chair indicated, in response to a parliamentary inquiry, that if the pending title of the substitute were considered as read and the committee then rose, points of order could be made prior to amendments being offered to that title or debate thereon when the committee resumed consideration of the bill. 117 CONG.

REC. 38078, 92d Cong. 1st Sess., Oct. 28, 1971 [H.R. 7248].

§ 19.3 Where a special rule providing for the consideration of a bill provides for "one motion to recommit," it is interpreted to mean "one valid motion to recommit," and if a point of order is sustained against a motion to recommit with instructions because it is not germane to the bill, another motion to recommit may be entertained by the Chair. 113 CONG. REC. 5155, 90th Cong. 1st Sess., Mar. 2, 1967 [H.R. 4515].

§ 19.4 The Committee on Rules reported a resolution making in order the consideration of a bill which had been sequentially referred by the Speaker from the Committee on Interior and Insular Affairs to the Committee on Armed Services, dividing general debate between the two committees, utilizing the amendment in the nature of a substitute recommended by the first committee as an original bill for amendment, permitting the text of another bill (reported from the second committee) to be offered as an amendment in the nature of a substitute immediately after general debate and, if rejected, then permitting the second committee's amendments to be offered en bloc (in effect a new title II) to the first committee's amendment. 121 CONG. REC. 21599, 94th Cong. 1st Sess., July 18, 1975 [H. Res. 416].

§ 19.5 The House may call up from the Speaker's table a Senate bill pursuant to a special rule permitting its immediate consideration in the House. 121 CONG. REC. 26178, 26181, 94th Cong. 1st Sess., July 31, 1975 [H. Res. 632]. See also Ch. 32 § 3, infra.

§ 19.6 The House considered a privileged resolution reported from the Committee on Rules which waived points of order against a designated nongermane amendment printed in the *Congressional Record* if offered during further consideration of a bill already pending in the Committee of the Whole; and after passage of that bill discharged the Committee on Interstate and Foreign Commerce from a similar Senate bill and inserted the provisions of the House bill. 121 CONG. REC. 25847, 94th Cong. 1st Sess., July 30, 1975 [H. Res. 649].

§ 19.7 A resolution was reported from the Committee on Rules providing for consideration in the Committee of the Whole of a resolution reported from the Committee on the Judiciary on the confirmation of the nomination of the Vice President, which, *inter alia,* waived points of order against consideration of the resolution as not reported for three calendar days; divided general debate equally between the Chairman and ranking minority member of the Judiciary Committee and a majority member of the committee opposed to the confirmation; and ordered the previous question in the House upon completion of general debate in the Committee of the Whole. 120 CONG. REC. 41419, 93d Cong. 2d Sess., Dec. 19, 1974 [H. Res. 1519].

§ 19.8 A resolution was reported from the Committee on Rules making in order, prior to three-day availability, the consideration in the House as in Committee of the Whole of another (nonprivileged) resolution reported from the Rules Committee. 121 CONG. REC. 28565, 94th Cong. 1st Sess., Sept. 11, 1975 [H. Res. 705].

§ 19.9 The Committee on Rules reported a resolution which, *inter alia,* waived points of order against consideration of a bill not reported for three days; provided an "open" rule; waived all points of order against a Public Works and Transportation Committee substitute for another bill if offered as a new title to an Interstate and Foreign Commerce Committee amendment by a designated Member; after passage, required taking a similar Senate bill from the Speaker's table and inserting House provisions. 121 CONG. REC. 41334, 41335, 94th Cong. 1st Sess., Dec. 17, 1975 [H. Res. 931].

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"Open" Rules

§ 19.10 Where a bill is considered under an "open rule," germane amendments to the bill are in order under the standing rules of the House. 111 CONG. REC. 18076, 89th Cong. 1st Sess., July 26, 1965.

§ 19.11 Where a bill is being considered under the provisions of a resolution which specifies that committee amendments shall be in order "any rule of the House to the contrary notwithstanding," the issue of germaneness cannot be raised against a committee amendment. 106 CONG. REC. 10575, 86th Cong. 2d Sess., May 18, 1960 [H.R. 5].

§ 19.12 *Note:* By providing that an amendment in the nature of a substitute be read as an original bill for amendment, a special order provides, in effect, that the amendment in the nature of a substitute shall be considered as original text, with the pending portion open to the four stages of amendment, or with the entire text itself being subject to an amendment in the nature of a substitute (which in that context would be an amendment in the first degree). But where a bill consists of only one section, and is reported from committee with a single section amendment in the nature of a substitute, it is unnecessary to specify, in a resolution providing for the consideration of the bill, for reading the amendment as an original bill; for absent such a provision, the bill is read by the Clerk when general debate is concluded and the committee amendment is then reported; both the bill and the amendment are thus pending and open for amendment when consideration under the five-minute rule begins. See 115 CONG. REC. 19905, 19913, 91st Cong. 1st Sess., July 17, 1969 [H. Res. 476].

§ 19.13 A resolution was reported from the Committee on Rules which provided for, *inter alia,* an "open" rule; consideration of a committee amendment in the nature of a substitute as an original bill for amendment; and consideration of the text of another bill if offered as an amendment in the nature of a substitute for a committee amendment. 120 CONG. REC. 36366, 93d Cong. 2d Sess., Nov. 19, 1974 [H. Res. 1423]. For a special rule making in order an amendment in the nature of a substitute reported by a committee to one bill as an amendment in the nature of a substitute to another bill reported by that committee on which consideration had begun in the Committee of the Whole, see 123 CONG. REC. 35990, 95th Cong. 1st Sess., Oct. 31, 1977 [H. Res. 830].

§ 19.14 A resolution was reported from the Committee on Rules which provided for, *inter alia,* an "open" rule and consideration of the text of another bill (if offered) as an amendment in the nature of a substitute immediately after the enacting clause was read. 120 CONG. REC. 31313, 93d Cong. 2d Sess., Sept. 17, 1974 [H. Res. 1307].

§ 19.15 A resolution was reported from the Committee on Rules which provided an "open" rule and one motion to recommit; and required, after passage of the House bill in question, a discharge of the Committee on Foreign Affairs from a similar Senate bill and the insertion as one amendment in the nature of a substitute the texts of the House bill made in order by the resolution and another House-passed bill. 120 CONG. REC. 29654, 93d Cong. 2d Sess., Aug. 21, 1974 [H. Res. 1311].

§ 19.16 A resolution was reported from the Committee on Rules which provided for, *inter alia,* an "open" rule for consideration of a House bill, and made in order, after its passage, the taking of a similar Senate bill from the Speaker's table and inserting the text of a House bill and two other previously passed House bills as one amendment in the nature of a substitute. 121 CONG. REC. 17164, 17165, 94th Cong. 1st Sess., June 5, 1975 [H. Res. 484]. In a similar instance, the Committee on Rules reported a special order providing for consideration of two Senate bills after passage of a House bill and dividing the provisions of

the House bill into separate amendments to each Senate bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 12, 1979 [H. Res. 307].

§ 19.17 The House considered a resolution from the Committee on Rules which provided for, *inter alia,* an "open" rule for consideration of a bill jointly reported from two committees; and consideration of an amendment in the nature of a substitute recommended by two committees as an original bill for amendment. 121 CONG. REC. 19790, 19791, 94th Cong. 1st Sess., June 19, 1975 [H. Res. 554].

§ 19.18 The Committee on Rules reported a resolution which provided for an "open" rule for consideration of a bill reported favorably by the Committee on International Relations and then referred sequentially to and reported adversely by the Armed Services Committee; divided general debate between two committees and an individual Member named in the resolution; waived points of order against a nongermane International Relations Committee amendment printed in the bill; and permitted one motion to recommit. 121 CONG. REC. 30183, 30184, 94th Cong. 1st Sess., Sept. 25, 1975 [H. Res. 722].

§ 19.19 A resolution was reported from the Committee on Rules providing an "open" rule for consideration of a bill reported from the Committee on Public Works which, *inter alia,* divided general debate between two committees (Public Works and Merchant Marine and Fisheries); waived points of order against the text of a designated amendment in the nature of a substitute printed in the *Congressional Record* if offered in lieu of a committee amendment in the nature of a substitute printed in the bill immediately after reading of the enacting clause; and waiving points of order against the text of the Merchant Marine and Fisheries Committee amendment in the nature of a substitute for another bill if offered to the Public Works Committee bill upon rejection of a substitute printed in the *Congressional Record.* 120 CONG. REC. 18116, 93d Cong. 2d Sess., June 6, 1974 [H. Res. 1139].

§ 19.20 An "open" rule may provide for the consideration, in lieu of amendments reported from several committees, of the text of a designated bill as an amendment in the nature of a substitute, to be considered as an original bill for the purpose of amendment by titles. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 26, 1979 [H. Res. 379]. In providing for the consideration of a bill, the rule may provide for the initial consideration as original text for amendment provisions of another bill as an amendment in the nature of a substitute, and that, if the Committee of the Whole rejects such substitute, it may then consider the original bill as reported. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H. Res. 411].

§ 19.21 A resolution was reported from the Committee on Rules which provided an "open" rule for consideration in the Committee of the Whole of a resolution reported from the Select Committee on Committees, and made in order consideration of the text of another resolution if offered as an amendment in the nature of a substitute immediately after reading of the first paragraph. 120 CONG. REC. 32953, 93d Cong. 2d Sess., Sept. 30, 1974 [H. Res. 1395]. *Note:* The resolution made in order as an amendment in the nature of a substitute (H. Res. 1248) was the work-product of the special "committee on organization, study, and review" of the Democratic Caucus, to which group the question of committee reform had been "referred" by the caucus.

§ 19.22 The House considered a resolution providing an "open" rule for the consideration of a bill reported from three committees, dividing general debate among those committees, and permitting consideration en bloc of one committee's amendments to a title of a substitute amendment of another committee.

123 CONG. REC. 28365, 28366, 95th Cong. 1st Sess., Sept. 9, 1977 [H. Res. 657].

"Closed" Rules

§ 19.23 When a committee amendment is being considered under a "closed" rule prohibiting amendments thereto, only two five-minute speeches are in order, pro forma amendments are not permitted, and a third Member may be recognized only by unanimous consent. 111 CONG. REC. 5099, 89th Cong. 1st Sess., Mar 16, 1965; 123 CONG. REC. 6632, 95th Cong. 1st Sess., Mar. 8, 1977 [H.R. 3477].

§ 19.24 Pro forma amendments are not in order when a bill is being considered under a closed rule which permits no amendments except by direction of the committee reporting the bill. 105 CONG. REC. 17987–89, 86th Cong. 1st Sess., Sept. 3, 1959 [H.R. 9035]; 106 CONG. REC. 10576, 86th Cong. 2d Sess., May 18, 1960 [H.R. 5]; 108 CONG. REC. 22636, 87th Cong. 2d Sess., Oct. 5, 1962 [H. Con. Res. 570].

§ 19.25 Where a bill is being considered under a rule permitting only committee amendments and no amendments thereto, a motion that the committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out is in order. 105 CONG. REC. 17987–89, 86th Cong. 1st Sess., Sept. 3, 1959 [H.R. 9035].

§ 19.26 A resolution was reported from the Committee on Rules providing a "closed" rule for consideration in the House of a Senate joint resolution on the Speaker's table, which required that the previous question be ordered after general debate on the joint resolution, and permitted one motion to recommit. 120 CONG. REC. 35426, 93d Cong. 2d Sess., Oct. 11, 1974 [H. Res. 1438]. In 1980, the House considered a resolution waiving points of order against consideration of a joint resolution transferring certain funds from one agency to another, and which provided a "closed" rule for its consideration in the House; under the rule, the previous question was considered as ordered after debate, with one motion to recommit, thereby permitting intervening motions. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 26, 1980. *Note:* Such a rule does not preclude a motion to recommit with instructions; the phrase "with or without instructions" is normally included in a rule only where the adoption of an amendment in the nature of a substitute is possible prior to the motion to recommit.

Rules "Open" in Part or "Closed" in Part

§ 19.27 *Note:* The Committee on Rules may stipulate that a bill is to be considered for amendment under a "modified open" rule—that is, that the bill is to be open to amendment with certain exceptions, or under a "modified closed" rule—that is, that the bill is closed to amendment except under certain conditions or except with respect to certain provisions.

§ 19.28 A resolution providing a "modified open" rule for the consideration of a bill and substitute therefor may include a provision prohibiting, with certain exceptions, amendments which "amend or affect" a certain statute. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 27, 1979 [H. Res. 472, providing for the consideration of H.R. 2608]. Such a resolution does not prevent consideration of an amendment which does not demonstrably affect that law but rather amends another law, although the amendment is applicable to the same class of conduct covered by the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 4, 1979 [H.R. 2608].

§ 19.29 A special rule may provide for the consideration of a bill where general debate is to be divided between two committees, and where part of the committee substitute in the bill is open to amendment and part is closed. 116 CONG. REC. 33298, 33318, 91st Cong. 2d Sess., Sept. 23, 1970 [H. Res 1216, providing for consideration of H.R. 18583].

§ 19.30 The Committee on Rules reported a resolution which provided for, *inter alia,* a "modified open" rule and consideration of a committee amendment in the nature of a substitute as an original bill for amendment three legislative days after conclusion of general debate; only Education and Labor Committee amendments or germane amendments printed in the *Congressional Record* for two calendar days were made in order to title I of the substitute, and no amendments thereto were permitted. 120 CONG. REC. 6267, 6268, 93d Cong. 2d Sess., Mar. 12, 1974 [H. Res. 963].

§ 19.31 The Committee on Rules reported a resolution which, *inter alia,* waived points of order against consideration of a bill providing new spending (contract) authority not subject to limits in appropriations acts in violation of § 401 of the Congressional Budget Act; prohibited an amendment in the nature of a substitute and amendments adding new titles; provided that the Ways and Means Committee amendments printed in the bill would be considered en bloc to each title; made in order germane amendments to each title if printed in the *Congressional Record* by a day certain; permitted only Ways and Means Committee amendments thereto; waived points of order against the nongermane text of another bill if offered to a designated title, and permitted germane amendments thereto; and specifically permitted pro forma amendments to the pending bill or amendments although not printed in the *Congressional Record.* 121 CONG. REC. 17871, 94th Cong. 1st Sess., June 9, 1975 [H. Res. 805].

§ 19.32 The Chairman of the Committee on Ways and Means inserted in the *Congressional Record* the text of an amendment informally approved by that committee, together with explanatory material, proposing a new title dealing with the airport and airway trust fund revenue provisions to be offered to a bill reported from the Committee on Public Works and Transportation pursuant to a "modified open" rule waiving points of order against the amendment (as nongermane) and permitting only one amendment thereto. 121 CONG. REC. 40775, 94th Cong. 1st Sess., Dec. 16, 1975 [H. Res. 930].

§ 19.33 A resolution was reported from the Committee on Rules providing a "modified open" rule for the consideration of a bill reported from the Committee on Government Operations, and making in order en bloc consideration of groups of committee amendments as inserted in the *Congressional Record* by a member of the Committee on Rules—in lieu of separate consideration of Government Operations Committee amendments as printed in the bill—with the groups of amendments not subject to a demand for division of the question in the House or in the Committee of the Whole. 122 CONG. REC. 17064, 94th Cong. 2d Sess., June 9, 1976 [H. Res. 1269].

§ 19.34 The House adopted a resolution providing a "modified open" rule for the consideration of a labor reform bill, with no amendments in order to the bill or a substitute except germane amendments printed in the *Congressional Record* at least one legislative day prior to consideration. 123 CONG. REC. 32107, 95th Cong. 1st Sess., Oct. 4, 1977 [H. Res. 799, providing for consideration of H.R. 8410].

§ 19.35 A resolution was reported from the Committee on Rules providing a rule "open" in part and "closed" in part for consideration of a bill reported by the Committee on Education and Labor, which, *inter alia,* permitted general debate to be controlled by two committees, Education and Labor and Ways and Means, waived points of order against consideration of texts of two bills as separate titles of one amendment in the nature of a substitute for a committee amendment printed in the bill, and waived points of order against germane amendments to a specified topic to designated subsections of title II. 120 CONG. REC. 4272–

74, 93d Cong. 2d Sess., Feb. 26, 1974 [H. Res. 896].

§ 19.36 A resolution was reported from the Committee on Rules providing a "modified open" rule in part and a "closed" rule in part, which, *inter alia,* made in order only Judiciary Committee amendments or germane amendments printed in the *Congressional Record* two days prior to consideration of an amendment in the nature of a substitute. 120 CONG. REC. 1407, 1408, 93d Cong. 2d Sess., Jan. 30, 1974 [H. Res. 787].

§ 19.37 The Committee on Rules reported resolutions: (1) for consideration of the introduced version of a bill but prohibiting consideration of a nongermane committee amendment printed in the reported bill, and permitting only a certain type of floor amendment to the bill and germane amendments thereto; and (2) providing for separate consideration under an "open" rule of another introduced bill (containing the text of the nongermane committee amendment) but not reported from committee. 121 CONG. REC. 2318, 2322, 94th Cong. 1st Sess., Feb. 5, 1975 [H. Res. 142 and H. Res. 143].

§ 19.38 A Member, on behalf of the Committee on Rules, called up a resolution which, *inter alia,* waived points of order against consideration of a bill on which a supplemental report was not available for three days; permitted only Judiciary Committee amendments or germane amendments printed in the *Congressional Record* at least two days prior to the start of consideration under the five-minute rule, and permitted only committee amendments thereto; and specifically permitted pro forma amendments in order to permit debate on the bill or pending amendment. 121 CONG. REC. 17164, 94th Cong. 1st Sess., June 5, 1975 [H. Res 513].

§ 19.39 With respect to the Tax Reform Act of 1975, the Chairman of the Committee on Ways and Means informed the Members that he had been instructed by his committee to request from the Committee on Rules a "modified open" rule, permitting committee amendments which would not be subject to amendment, and permitting specified amendments to be offered from the floor. 121 CONG. REC. 35581, 94th Cong. 1st Sess., Nov. 10, 1975.

§ 19.40 The Committee on Rules reported a privileged resolution which provided for, *inter alia,* a "modified closed" rule for consideration in the Committee of the Whole of another privileged resolution reported from that committee and required that the previous question be ordered to the adoption or rejection at the conclusion of consideration in the Committee of the Whole with no motion to recommit. 120 CONG. REC. 10181, 93d Cong. 2d Sess., Apr. 9, 1974 [H. Res. 1018].

§ 19.41 The Committee on Rules reported a resolution providing a "modified closed" rule for consideration of the introduced version of a bill reported by the Committee on Ways and Means; waiving all points of order against the bill; the bill to be considered as read for amendment; and making in order only amendments relating to the President's authority under § 232 of the Trade Expansion Act. 121 CONG. REC. 2318, 94th Cong. 1st Sess., Feb. 5, 1975 [H. Res 142].

§ 19.42 The Committee on Rules reported a special rule providing for consideration of a resolution under the five-minute rule and providing a "modified closed" rule permitting only a designated legislative amendment relating to one subject and a "closed" rule with respect to a second subject. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 21, 1979 [H. Res. 419]. In a related instance, the Committee on Rules reported a resolution providing a "modified closed" rule for consideration of a bill reported by the Committee on Ways and Means, which, *inter alia,* made in order only the following amendments to the bill or substitute: (1) Ways and Means Committee amend-

ments; (2) the text of another bill if offered as an amendment in the nature of a substitute for a committee substitute; and (3) a designated amendment printed in the *Congressional Record* by a specified Member [which could also be offered to the substitute text described in (2)], waived all points of order against said amendment which would not be subject to amendments except (a) that the designated amendment printed in the resolution would be in order (although in the third degree) if offered by a specified Member to amendment described in (3), said amendment would not be subject to amendment; and (b) that the designated amendment printed in the *Congressional Record* by another specified Member would be in order (although in the third degree) if offered to the amendment described in (3), said amendment would be subject to only two amendments in the form designated in the resolution if offered by another specified Member (although in the fourth degree), said amendments would not be subject to amendment. 121 CONG. REC. 4593, 94th Cong. 1st Sess., Feb. 27, 1975 [H. Res. 259].

§ 19.43 Under a special rule providing for consideration of the introduced version of a bill and prohibiting all amendments except those of a certain described category, a committee amendment in order under the rule and printed in the reported version of the bill was offered from the floor, since the Chair had no authority under the rule to order the Clerk to report an amendment in the reported version. 121 CONG. REC. 2365, 2366, 94th Cong. 1st Sess., Feb. 5, 1975 [H.R. 1767].

§ 19.44 The House adopted a resolution providing a "modified closed" rule for the consideration of a bill reported from the ad hoc Committee on Energy. The resolution provided for general debate not to exceed one legislative day, and for the consideration of certain ad hoc committee amendments en bloc and not subject to division of the question in the House or in the Committee of the Whole. The resolution further provided that all such amendments were not subject to amendment except pro forma amendments for debate, those recommended by the ad hoc committee, or two designated amendments (one a substitute) printed in the *Congressional Record* which could be offered only to certain ad hoc committee amendments. 123 CONG. REC. 28653, 95th Cong. 1st Sess., July 29, 1977 [H. Res. 727].

§ 19.45 The Committee on Rules reported a "modified closed rule" for the consideration of a resolution containing the recommendations of the House Commission on Administrative Review relating to the administrative organization and legislative services of the House, as reported from the Committees on Rules and on House Administration. 123 CONG. REC. 33435, 95th Cong. 1st Sess., Oct. 12, 1977 [H. Res. 819, providing for consideration of H. Res. 766]. *Note:* Provision was made in the special rule, which was rejected by the House, for "amendments recommended by the Committee on Rules consistent with the terms of reference of the resolution." For a "modified closed rule" providing for the consideration in the Committee of the Whole of a resolution divided for reference among three committees and reported therefrom, amending the rules of the House relating to financial ethics, see 123 CONG. REC. 5885, 95th Cong. 1st Sess., Mar. 2, 1977 [H. Res. 338].

§ 19.46 The House adopted a rule waiving points of order against consideration of the Omnibus Reconciliation Bill of 1980, permitting only four categories of amendments, and limiting the motion to recommit to instructions permissible under those categories. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 4, 1980 [H. Res. 776].

§ 20. Providing for Consideration of Unreported Measures

§ 20.1 The Committee on Rules, pursuant to its authority under clause 1(q) Rule X to call up privileged resolutions relating to the order of business, may provide for the discharge of a standing committee from consideration of a measure pending before that committee. 118 CONG. REC. 3437, 92d Cong. 2d Sess., Feb. 9, 1972 [H. Res. 796], where the House adopted a resolution reported from the Committee on Rules, discharging the Committee on Education and Labor from a joint resolution and providing a "closed" rule for its consideration, although that legislative committee had ordered reported another joint resolution on the same subject (but was not able to file its report because members had, pursuant to clause 28(d)(3) of Rule XI, requested three calendar days to file supplemental, minority or additional views).

§ 20.2 The Committee on Rules may report a resolution providing for the consideration of a bill, even though the effect be to discharge a committee and bring before the House a bill not yet reported. 110 CONG. REC. 20212, 88th Cong. 2d Sess., Aug. 19, 1964 [H. Res. 845, providing for the consideration of H.R. 11926, limiting jurisdiction of Federal courts in reapportionment cases].

§ 20.3 The Committee on Rules reported and the House adopted a resolution making in order the immediate consideration of a joint resolution which had not been reported by the committee to which it had been referred. 111 CONG. REC. 14705, 89th Cong. 1st Sess., June 24, 1965 [H. Res. 433, providing for consideration of H.J. Res. 541, extending the Area Redevelopment Act].

§ 20.4 A privileged resolution, reported by the Committee on Rules, was amended to provide that immediately upon its adoption the House would resolve into the Committee of the Whole to consider a bill pending before, and not yet reported by, the Committee on the Judiciary. 110 CONG. REC. 20213, 20221, 88th Cong. 2d Sess. Aug. 19, 1964 [H. Res. 845, providing for consideration of H.R. 11926].

§ 20.5 Pursuant to Rule X clause 1(q), the Committee on Rules may report as privileged a resolution on "order of business" which has the effect of discharging another committee from consideration of a measure referred to it. 120 CONG. REC. 36020, 93d Cong. 2d Sess., Oct. 17, 1974 [H. Res. 1456, providing for consideration of H.J. Res. 1167].

§ 20.6 A resolution was reported from the Committee on Rules, providing for the discharge of another resolution from that committee and for its consideration in the House as in Committee of the Whole. 121 CONG. REC. 15393, 15394, 94th Cong. 1st Sess., May 20, 1975 [H. Res. 438, providing for consideration of H. Res. 371, to send a congressional delegation to the International Women's Year Conference]. In 1976, a special rule was reported from the Committee on Rules providing for consideration in the House as in the Committee of the Whole of a House concurrent resolution (referred to the Committee on Rules but not reported) identical to a Senate concurrent resolution previously rejected by the House, and, after the adoption of the House concurrent resolution, vacating proceedings whereby the Senate concurrent resolution had been rejected and providing for its consideration in the House. 122 CONG. REC. 6776, 94th Cong. 2d Sess., Mar. 17, 1976 [H. Res. 1086, providing for consideration of H. Con. Res. 580, authorizing a congressional delegation to accept the loan of the Magna Carta]. *Note:* It would have been possible to merely vacate the proceedings on the Senate concurrent resolution following adoption of the special rule, rather than to first consider an identical House concurrent resolution, but the Speaker preferred to use the House concurrent resolution

which was cosponsored by the joint leadership.

§ 20.7 A resolution was reported from the Committee on Rules which provided for consideration in the House of a concurrent resolution not reported from that committee, and, after adoption, discharged the Rules Committee from a similar Senate concurrent resolution for consideration in the House. 121 CONG. REC. 20261, 94th Cong. 1st Sess., June 23, 1975 [H. Res. 555, providing for consideration of H. Con. Res. 292].

§ 20.8 The Committee on Rules may report a resolution providing for the consideration of a resolution, even though the effect may be to discharge a committee (including Rules) and bring before the House a resolution not yet reported. 121 CONG. REC. 20261, 94th Cong. 1st Sess., June 23, 1975 [H. Res. 555, providing for consideration of H. Con. Res. 292].

§ 20.9 A resolution was reported from the Committee on Rules discharging the Committee on Interstate and Foreign Commerce from a resolution not reported therefrom and providing for its immediate consideration in Committee of the Whole; the previous question was ordered in the House at the conclusion of general debate. 121 CONG. REC. 23960, 94th Cong. 1st Sess., July 22, 1975 [H. Res. 613, providing for consideration of H. Res. 605, disapproving the President's petroeum decontrol regulations].

§ 20.10 Where existing law [§ 4(g)(2) of the Emergency Petroleum Allocation Act of 1973 (Pub. L No. 93-159)] permitted either House to disapprove by resolution a Presidential regulation exempting oil or oil products from regulation, within five legislative days from submission of the regulation, but provided no mechanism whereby either House could consider such a disapproval resolution as a privileged matter, the Committee on Rules reported a special order discharging the Interstate and Foreign Commerce Committee from a disapproval resolution and providing for its immediate consideration under a procedure prohibiting amendments. 121 CONG. REC. 23960, 94th Cong. 1st Sess., July 22, 1975 [H. Res. 613, providing for consideration of H. Res. 605].

§ 20.11 The Committee on Rules reported a special order discharging that committee from another resolution and providing for its immediate consideration in the House under a "closed" rule which precluded amendment to the resolution or to any motion to recommit. 122 CONG. REC. 21788, 94th Cong. 2d Sess., July 1, 1976 [H. Res. 1395, providing for consideration of H.R. 1368, to establish a Commission on Administrative Review in the House]. On the same day, the Committee on Rules reported a similar special order discharging the Committee on House Administration from a resolution and providing for its immediate consideration in the House under a "closed" rule precluding amendment to the resolution or to any motion to recommit. 122 CONG. REC. 21807, 21808, 94th Cong. 2d Sess., July 1, 1976 [H. Res. 1396, providing for consideration of H. Res. 1372, limiting the authority of the Committee on House Administration to fix allowances]. *Note:* In such cases it is not necessary to waive points of order against the resolution because the committee is being discharged and the reporting requirements of Rule XI are not applicable.

§ 20.12 The House adopted a resolution providing an "open" rule for the consideration of a jointly referred bill reported from one committee and discharging the other committee by motion to resolve into Committee of the Whole to consider the bill. 122 CONG. REC. 34120, 34121, 94th Cong. 2d Sess., Sept. 30, 1976 [H. Res. 1584]; 124 CONG. REC. 28121, 95th Cong. 2d Sess., Sept. 6, 1978. [H. Res. 1266]. *Note:* Normally, when the Committee on Rules reports a resolution which "discharges" a legislative committee from the further consideration of a bill which has not been

reported, it provides for its "immediate" consideration in the Committee of the Whole without motion. Here, the motion to resolve into the Committee of the Whole was made in order, and the discharge of the Committee on Interior and Insular Affairs was accomplished by adoption of that motion, not by adoption of the rule. No point of order needed to be waived against the motion because no rule of the House requires that a bill be reported before it can be considered.

§ 20.13 The Committee on Rules reported a resolution providing an "open" rule for the consideration of a bill not reported from the committee to which it had been referred, with general debate controlled by the chairman and ranking minority member of the discharged committee. 123 CONG. REC. 31705, 31706, 95th Cong. 1st Sess., Sept. 30, 1977 [H. Res. 800, providing for consideration of H.R. 9354].

§ 20.14 The House adopted a resolution providing an "open" rule for the consideration of a bill and discharging the International Relations Committee from a similar Senate bill and inserting the texts of three House-passed bills as one amendment in the nature of a substitute. 122 CONG. REC. 17107, 17108, 94th Cong. 2d Sess., June 9, 1976 [H. Res. 1203, providing for the consideration of H.R. 13589].

§ 20.15 The Committee on Rules reported a special rule providing for consideration of a bill which had been jointly referred to four committees and reported by only one, rather than permitting consideration of a similar bill on the Union Calendar which had been divided for reference to those committees and reported therefrom within the time certain imposed by the Speaker. The special rule permitted consideration of amendments recommended by the other three committees corresponding with those contained in the reported bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 17, 1979 [H.R. 111]. *Note:* Rather than provide for the consideration of H.R. 1716, on the Union Calendar, the Committee on Rules by providing for consideration of H.R. 111 effectively discharged the other three committees from consideration of that bill and made a committee substitute the vehicle for amendment.

§ 20.16 A resolution was reported from the Committee on Rules providing for consideration in the House (under an implied "closed" rule) of a resolution not reported from the Committee on Ways and Means expressing the sense of the House on an issue contained in a conference report filed but not yet considered. [The House rejected the resolution when called up.] 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 12, 1980 [H. Res. 604].

§ 21. Amending Special Rules; Modifications After Adoption

§ 21.1 A resolution reported from the Committee on Rules providing for the consideration of a bill is subject to germane amendment if the previous question on the resolution is voted down. 114 CONG. REC. 30092, 90th Cong. 2d Sess., Oct. 8, 1968. See also 111 CONG. REC. 14861, 14866, 89th Cong. 1st Sess., June 28, 1965, where a resolution reported from the Committee on Rules was amended on the floor of the House to correct a drafting error. However, a resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another subject that is not germane to the bill. Thus, to a resolution reported from the Committee on Rules providing for the consideration of a joint resolution reported from the Committee on Ways and Means providing a temporary extension of the public debt limit, an amendment to make in order, any rule of the House to the contrary notwithstanding, an amendment to the joint resolution disapproving an import fee imposed

by the President pursuant to the Windfall Profit Tax Act, was held not germane. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 682]. It follows that if the previous question on the adoption of a special order is defeated, an amendment waiving the germaneness rule to provide for the additional consideration of an unrelated amendment to the bill is not germane, the provisions of clause 7 Rule XVI being applicable under the precedents to amendments in the House to special orders so as to prohibit that from being accomplished indirectly which cannot under the germaneness rule be done by direct amendment. The precedents (5 Hinds' Precedents §§ 5834–36) which preclude the offering of a nongermane amendment to a special order which would *substitute* the consideration of one proposition for another unrelated proposition, also preclude the offering of an amendment to an order-of-business resolution which would permit the *additional* consideration of a nongermane amendment to a bill. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 682].

§ 21.2 A special rule reported from the Committee on Rules may be modified, while pending, by unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 28, 1979 [H. Res. 367]. And a refusal to order the previous question on such a rule opens the resolution to amendment and further debate. 113 CONG. REC. 27644, 27652, 90th Cong. 1st Sess., Oct. 3, 1967. In one instance in 1979, the House rejected the previous question by roll call vote on a special rule reported by the Committee on Rules, adopted an amendment extending the time for general debate in Committee of the Whole on the bill in question, and adopted the special rule as amended. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 28, 1979 [H. Res. 367]. And when the previous question is rejected, the provisions of clause 4(b) of Rule XI, prohibiting "dilatory" motions on such privileged resolutions, no longer apply, and a motion to refer the resolution to the Committee on Rules is in order. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 682].

§ 21.3 Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 682].

§ 21.4 A "closed" rule, providing for the consideration of a Ways and Means bill that had been reported with an amendment in the nature of a substitute, was amended on the floor of the House to include language permitting a separate vote in the House on any amendments adopted to the bill or substitute. 112 CONG. REC. 24539, 89th Cong. 2d Sess., Sept. 30, 1966 [H. Res. 1036, providing for consideration of H.R. 17607, suspending the investment credit tax].

§ 21.5 The House rejected a motion for the previous question on a resolution reported from the Committee on Rules, then adopted an amendment to the resolution striking out the provision making a specific bill in order as a substitute for the committee amendment in the nature of a substitute. 116 CONG. REC. 19837-44, 91st Cong. 2d Sess., June 16, 1970 [H. Res. 1077, providing for consideration of H.R. 17070, Postal Reform Act of 1970].

§ 21.6 The House defeated the previous question on a resolution providing for a "closed" rule and then, after considering an amendment to permit reading the bill by titles and motions to strike matter in the bill, ordered the previous question on the amendment and resolution, rejected the amendment, and finally agreed to the resolution as reported from the Committee on Rules. 116 CONG. REC. 37834, 37841, 91st Cong. 2d Sess., Nov. 18, 1970 [H. Res. 1225, providing for consideration of H.R.

18970, to amend the tariff and trade laws of the United States].

§ 21.7 The Speaker, by announcing that he had prematurely entertained a unanimous-consent request to amend a resolution prior to its actual consideration, thereby vacated that action, and stated that the correction should be made during the five-minute rule in the Committee of the Whole and not during consideration of the rule making that resolution a special order of business. 121 CONG. REC. 22622, 22623, 94th Cong. 1st Sess., July 14, 1975 [H. Res. 596, providing for consideration of H. Res. 591, establishing a Select Committee on Intelligence].

§ 21.8 The House rejected the previous question on a resolution reported from the Committee on Rules providing a "modified closed" rule for the consideration of a tax bill reported from the Committee on Ways and Means, and adopted an amendment in the nature of a substitute providing a "modified open" rule for the consideration of the bill. 122 CONG. REC. 28304-09, 94th Cong. 2d Sess., Aug. 30, 1976 [H. Res. 1496].

§ 21.9 Where the Committee of the Whole was considering for amendment a bill pursuant to a special rule from the Committee on Rules permitting only designated amendments, including committee amendments, which were not subject to substantive amendments except as specified, the Chair stated that the pending amendment had been made in order only as a perfecting amendment to the pending committee amendment, and that the Committee of the Whole could not even by unanimous consent directly alter the special rule adopted by the House to require the perfecting amendment to be offered to the bill after disposition of the pending committee amendment. 123 CONG. REC. 26161, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 8444, the National Energy Act]. *Note:* Unanimous-consent requests may be entertained in the Committee of the Whole by the Chair if their effect is to allow procedures which differ only in minor or incidental respects from the procedure required by a special rule or order adopted by the House. Thus, debate under the five-minute rule may be extended by unanimous consent where the House is operating under a "closed" rule (120 CONG. REC. 8239, 93d Cong. 2d Sess., Mar. 26, 1974), a modification to a designated amendment made in order by a "modified closed" rule may be permitted by unanimous consent (122 CONG. REC. 28877, 94th Cong. 2d Sess., Sept. 1, 1976), and a page reference may be included in a designated amendment made in order where the printed amendment did not include that reference (122 CONG. REC. 9091, 94th Cong. 2d Sess., Apr. 1, 1976). But where a unanimous-consent request directly alters the basic structure of a complex and detailed rule, the Chair should refuse to entertain the request. See, for example, 119 CONG. REC. 41153, 93d Cong. 1st Sess., Dec. 12, 1973 (request to read a substitute by sections for amendment where the special rule did not so provide).

§ 21.10 The Committee on Rules may report a privileged resolution modifying the effect and operation of a previous special order reported by that committee and adopted by the House. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Apr. 30, 1980 [H. Res. 649].

Chapter 22

Calendars

§ 1. In General; The Union Calendar
§ 2. Consent Calendar
§ 3. — Screening Procedures and Objections; Objectors' Committees
§ 4. Private Calendar
§ 5. — Relation to Other Business
§ 6. — Objectors and Objections
§ 7. — Omnibus Bills

§ 1. In General; The Union Calendar

§ 1.1 The House under its rules maintains various calendars to facilitate the scheduling and consideration of legislation. These include: (1) a House Calendar, to which are referred public bills that do not raise revenue or make an appropriation; (2) a Union Calendar, to which are referred general appropriation bills, bills raising revenue, and public bills appropriating money or property; (3) a Private Calendar (see § 4, infra), called the Calendar of the Committee of the Whole House, to which are referred bills of a private character; (4) a Consent Calendar (see § 2, infra), for bills of no controversy for consideration and passage by common consent; and (5) a Discharge Calendar, to which are referred motions to discharge. Rule XIII clauses 1–5. These calendars are printed daily (Rule XIII clause 6) and appear in *Calendars of the United States House of Representatives.*

§ 1.2 By unanimous consent, the House may proceed to the immediate consideration of a bill pending on the Union Calendar. 112 CONG. REC. 7749, 89th Cong. 2d Sess., Apr. 6, 1966.

§ 1.3 *Note:* Where the House grants unanimous consent for the immediate consideration of a bill on the Union Calendar, the bill is considered in the House as in the Committee of the Whole and debated under the five-minute rule. 112 CONG. REC. 7749, 89th Cong. 2d Sess., Apr. 6, 1966 [H.R. 14224, Social Security Act amendments]. Where a Member asks "unanimous consent for the immediate consideration" of a bill pending on the Union Calendar, the request is construed to carry with it the additional stipulation that if consent is granted, the bill will be considered in the House as in the Committee of the Whole.

§ 1.4 The question of consideration being decided in the affirmative, the House automatically resolves into the Committee of the Whole for the consideration of a bill on the Union Calendar. 106 CONG. REC. 9417, 86th Cong. 2d Sess., May 4, 1960 [S. 722].

§ 1.5 The provision in Rule XIII clause 2—which permits any Member to request, within three days of the filing of an adverse report on a bill, the referral of the bill to the appropriate calendar—authorizes referral by the Speaker of an adversely reported resolution to the House Calendar upon timely request. See 120 CONG. REC. 16865, 93d Cong. 2d Sess., May 30, 1974 [H. Res. 774], where a Member requested the referral of a resolution, adversely reported by the Banking and Currency Committee, to the calendar. Rule XIII clause 2 applies only to nonprivileged matters; adverse reports on a privileged resolution are automatically referred to the proper calendar by the Speaker under Rule XI clause 4(a). Thus, in the 94th Congress the Speaker referred an adverse report from the Committee on Standards of Official Conduct on a privileged resolution proposing expulsion of a Member to the House Calendar immediately upon its filing. 122 CONG. REC. 29274, 94th Cong. 2d Sess., Sept. 8, 1976 [H. Res. 1392; H. Rept. 94-1477]. *Note:* Adverse reports on resolutions of inquiry, privileged under Rule XXII clause 5, have also been consistently referred to the House Calendar.

§ 1.6 The Speaker, having general authority to correct the erroneous reference of a reported bill to a calendar, may remove a reported bill from the Union Calendar by discharge therefrom for reference to the Committee on Appropriations pursuant to section 401(b) of the Congressional Budget Act. 123 CONG. REC. 28173, 95th Cong. 1st Sess., Sept. 8, 1977 [H.R. 3813, to amend an act establishing a Redwood National Park].

§ 2. Consent Calendar

§ 2.1 *Note:* The Consent Calendar provides for a procedure by which bills of no controversy can be considered and passed by common consent. To be called, a bill must have been on the Consent Calendar for three legislative days. See clause 4 Rule XIII.

§ 2.2 While the call of the Consent Calendar is, under clause 4 Rule XIII, mandatory on the first and third Mondays of the month immediately after approval of the Journal, the Speaker may recognize a Member to call up a conference report under clause 1 Rule XXVIII, before directing the Clerk to call the Consent Calendar. 116 CONG. REC. 13991-95, 91st Cong. 2d Sess., May 4, 1970.

§ 2.3 *Note:* In calculating the three legislative days in which a bill must be on the Consent Calendar to be eligible for consideration under clause 4 Rule XIII, the Chair counts the day that the bill is placed on the calendar or the day the calendar is called, but not both. 119 CONG. REC. 32070, 93d Cong. 1st Sess., Oct. 1, 1973 [H.R. 7599, changing the name of the Patent Office]. H.R. 7599 was reported from the Judiciary Committee on September 25, and placed on the Consent Calendar on that day. The House was in session on September 26 and 27; the bill was thus eligible when the Consent Calendar was called on October 1. Compare 109 CONG. REC. 1630, 88th Cong. 1st Sess., Feb. 4, 1963, where bills on the Consent Calendar were called, where there was no objection, even though they had not been on the calendar for three legislative days.

§ 2.4 The call of the Consent Calendar may, by unanimous consent, be dispensed with or transferred to another day. 110 CONG. REC. 1552, 88th Cong. 2d Sess., Jan. 31, 1964; 110 CONG. REC. 22394, 88th Cong. 2d Sess., Sept. 21, 1964. See also 120 CONG. REC. 40128, 93d Cong. 2d Sess., Dec. 16, 1974, which states that by unanimous consent, the call of those bills not then eligible on the Consent Calendar was made in order on the following day.

§ 2.5 The proceedings whereby a bill was passed on the Consent Calendar may, by unanimous consent, be vacated, and the bill restored to the Consent Calendar. 106 CONG. REC. 1782, 1784, 86th Cong. 2d Sess., Feb. 2, 1960.

§ 2.6 A bill called on the Consent Calendar was, by unanimous consent, laid on the table, an identical Senate measure having passed the House several days before. 109 CONG. REC. 24788, 88th Cong. 1st Sess., Dec. 17, 1963.

§ 2.7 By unanimous consent, a bill may be stricken from the Consent Calendar. 106 CONG. REC. 1782, 86th Cong. 2d Sess., Feb. 2, 1960; 106 CONG. REC. 6132, 86th Cong. 2d Sess., Mar. 21, 1960. 123 CONG. REC. 16171, 95th Cong. 1st Sess., May 24, 1977 [H.R. 4319].

§ 2.8 *Note:* The Speaker interpreted the order of the House of Jan. 30, 1974 [120 CONG. REC. 1463, 1464]—authorizing the reading of Washington's Farewell Address on Feb. 18, immediately after approval of the Journal—to preempt the call of the Consent Calendar, rather than merely to postpone its call until conclusion of the reading, despite an objection which had been raised on Feb. 14 to dispensing with the call of the Consent Calendar on Feb. 18. 120 CONG. REC. 3102-06, 93d Cong. 2d Sess., Feb. 18, 1974.

§ 2.9 Where the call of the Consent Calendar is by unanimous consent transferred from the third Monday to the third Tuesday of the month, the Speaker directs the call of the Consent Calendar immediately after approval of the Journal and prior to the discretionary call of the Private Calendar on that day. 122 CONG. REC. 3240, 3241, 94th Cong. 2d Sess., Feb. 17, 1976.

§ 2.10 In the 95th Congress, privileged resolutions from the Committee on House Administration providing for the printing of various reports were placed on the Consent Calendar and considered under the Consent Calendar procedure. 124 CONG. REC. 31620, 95th Cong. 2d Sess., Sept. 26, 1978. [H.Res. 1285].

§ 3. — Screening Procedures and Objections; Objectors' Committees

§ 3.1 Objectors are designated by the majority leader and the minority leader to adopt certain rules for the consideration of Consent Calendar bills. These informal rules are made known to the Members at the beginning of a session. These rules are publicized to advise the Members as to the manner in which the Objectors' Committee plans to operate throughout a Congress. For example, in the 96th Congress, the Consent Calendar Objectors' Committee announced that generally no legislation should pass from that calendar that (1) involved more than $1 million; (2) changed national or international policy; (3) the membership was not fully informed about. Similar guidelines have been announced in other Congresses. 111 CONG. REC. 3842, 89th Cong. 1st Sess., Mar. 1, 1965; 115 CONG. REC. 6543, 91st Cong. 1st Sess., Mar. 17, 1969; 117 CONG. REC. 3835, 92d Cong. 1st Sess., Feb. 25, 1971; 119 CONG. REC. 17812, 93d Cong. 1st Sess., June 4, 1973. See also 123 CONG. REC. 12619, 95th Cong. 1st Sess., Apr. 28, 1977.

§ 3.2 A bill on the Consent Calendar de novo is carried over until the next call when one objection to its consideration is made. 108 CONG. REC. 15609-11, 87th Cong. 2d Sess., Aug. 6, 1962, holding that a bill withdrawn from the Consent Calendar following one objection and, by unanimous consent, recommitted to the reporting committee, is considered de novo when rereported and again placed on the Consent Calendar, so that one objection is all that is necessary to prevent consideration.

§ 3.3 Objections to the consideration of a bill on the Consent Calendar come too late after the bill and amendments have been read and the pending question is on the passage of the bill. 105 CONG. REC. 17404, 86th Cong. 1st Sess., Aug. 31, 1959.

§ 3.4 An objection to the consideration of a bill on the Consent Calendar comes too late after an amendment has been offered and debated. 107 CONG. REC. 14738, 87th Cong. 1st Sess., Aug. 7, 1961.

§ 3.5 Three objections are required to strike a bill from the Consent Calendar when it is called the second time after one objection to its consideration had been made on a prior call. 105 CONG. REC. 17404, 86th Cong. 1st Sess., Aug. 31, 1959.

§ 3.6 At the Speaker's request, a resolution called on the Consent Calendar was passed over without prejudice. 112 CONG. REC. 7482, 89th Cong. 2d Sess., Apr. 4, 1966. *Note:* The resolution [H.J. Res. 837] was also scheduled for consideration under suspension of the rules. When it was called on the Consent Calendar, a Member indicated that he wished to offer an amendment. The Speaker, desiring to protect the resolution, then asked that it be passed over. It was passed by a voice vote under suspension of the rules later in the afternoon.

§ 4. Private Calendar

§ 4.1 The Private Calendar is called the first and third Tuesdays of each month. The consideration of Private Calendar bills on the first Tuesday is mandatory unless dispensed with by two-thirds vote. On the third Tuesday, however, the call of the Private Calendar is within the discretion of the Speaker and does not take precedence over other privileged

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business in the House. On the first Tuesday of each month, after disposition of business on the Speaker's table for reference only, the Speaker directs the call of the Private Calendar. If a bill called is objected to by two or more Members, it is automatically recommitted to the committee reporting it. No reservation of objection is entertained. Bills unobjected to are considered in the House as in Committee of the Whole. On the third Tuesday of each month the same procedure is followed with the exception that omnibus bills embodying bills previously rejected have preference and are in order regardless of objection. Private Calendar bills unfinished on one Tuesday go over to the next Tuesday on which such bills are in order and are considered before the call of other bills on the calendar. Omnibus bills follow the same procedure and go over to the next Tuesday on which that class of business is again in order. When the previous question is ordered on a Private Calendar bill, the bill comes up for disposition on the next legislative day. See clause 6 Rule XXIV, and 117 CONG. REC. 9747, 92d Cong. 1st Sess., Apr. 6, 1971. See 122 CONG. REC. 31571, 94th Cong. 2d Sess., Sept. 21, 1976, where a Minority Member who was an Official Objector on the Private Calendar asked unanimous consent to permit a call of the Private Calendar on a day not specified in Rule XXIV clause 6.

§ 4.2 A private bill authorizing a former Speaker to accept an award from a foreign government passed the House on the Private Calendar. 111 CONG. REC. 19210, 89th Cong. 1st Sess., Aug. 3, 1965; see also 112 CONG. REC. 12480, 89th Cong. 2d Sess., June 7, 1966, where a private bill authorizing a Member to accept an award from a foreign government was passed on the Private Calendar.

§ 4.3 Amendments to bills on the Private Calendar are debatable under the five-minute rule. 113 CONG. REC. 36535-37, 90th Cong. 1st Sess., Dec. 14, 1967 [H. Res. 981, opposing the granting of residence to certain aliens].

§ 4.4 Committee amendments to a bill on the Private Calendar may, by unanimous consent, be withdrawn when the bill is called. 111 CONG. REC. 10874, 89th Cong. 1st Sess., May 18, 1965 [H.R. 2351].

§ 4.5 Recognition in opposition to an amendment to a bill on the Private Calendar goes first to a member of the committee reporting the bill. 113 CONG. REC. 36535-37, 90th Cong. 1st Sess., Dec. 14, 1967 [H. Res. 981].

§ 4.6 A bill on the Private Calendar may, by unanimous consent, be recommitted to the Committee on the Judiciary. 109 CONG. REC. 24796, 88th Cong. 1st Sess., Dec. 17, 1963.

§ 4.7 A bill which had been objected to, stricken from the Private Calendar and recommitted to committee, may be restored to the calendar by unanimous consent. 108 CONG. REC. 13997, 87th Cong. 2d Sess., July 18, 1962; 108 CONG. REC. 15812, 87th Cong. 2d Sess., Aug. 7, 1962.

§ 4.8 The call of the Private Calendar may, by unanimous consent, be transferred from Tuesday to some other day of the month. 108 CONG. REC. 16796, 87th Cong. 2d Sess., Aug. 16, 1962; 109 CONG. REC. 11774, 88th Cong. 1st Sess., June 26, 1963; 109 CONG. REC. 16159, 88th Cong. 1st Sess., Aug. 26, 1963.

§ 4.9 By unanimous consent, the call of the Private Calendar was transferred from the first and third Tuesdays of August to the second and fourth so that the call would fall on the days following the calls of the Consent Calendar. 107 CONG. REC. 13745, 87th Cong. 1st Sess., July 27, 1961.

§ 4.10 Calls of the Private Calendar were, by unanimous consent, dispensed with during a week devoted to consideration of certain legislation. 110 CONG. REC. 1552, 88th Cong. 2d Sess., Jan. 31, 1964 [Civil Rights Act of 1963].

§ 4.11 A bill on the Private Calendar and also listed for consideration under suspension of

the rules on that day was recommitted, pursuant to Rule XXIV clause 6, upon objection of two Members, and was then not called up under suspension. 120 CONG. REC. 13344, 93d Cong. 2d Sess., May 7, 1974 [H.R. 8545, for the relief of Russell G. Wells].

§ 4.12 By unanimous consent, the House agreed to consider a private Senate bill reported from the Committee on the Judiciary with a nongermane amendment in the nature of a substitute converting it into a public bill. 124 CONG. REC. 38217, 95th Cong. 2d Sess., Oct. 14, 1978 [S. 2247]. *Note:* The bill should have been referred to the Private Calendar when reported, but was viewed as a public bill in essence since it was reported with an amendment in the nature of a substitute of a public character. Such bills should not be put on the Union Calendar because, if consideration is granted by unanimous consent, a germaneness point of order then lies against the committee amendment.

§ 5. — Relation to Other Business

§ 5.1 While the call of the Private Calendar is, under clause 6 Rule XXIV, mandatory on the first Tuesday of the month, the Speaker may recognize for privileged business before directing the Clerk to begin the calendar call. 111 CONG. REC. 19187-91, 89th Cong. 1st Sess., Aug. 3, 1965, where the Speaker recognized a Member to call up a conference report before directing the call of the Private Calendar on the first Tuesday of the month.

§ 5.2 While clause 6 Rule XXIV gives the Speaker discretionary authority to direct the call of the Private Calendar "after disposal of such business on the Speaker's table as requires reference only" on the third Tuesday of each month, the Speaker may entertain unanimous-consent requests for the disposition of other legislative business pending such call. 116 CONG. REC. 37654, 91st Cong. 2d Sess., Nov. 17, 1970; 111 CONG. REC. 19202-05, 89th Cong. 1st Sess., Aug. 3, 1965, where, by unanimous consent, a bill on the Private Calendar was brought up and passed just prior to the call of that calendar.

§ 5.3 While Rule XXIV clause 6 requires the call of the Private Calendar on the first Tuesday of each month immediately after disposition of referrals from the Speaker's table, the Speaker may, by unanimous consent, recognize a Member for a "one-minute speech" pending the call of the calendar. 118 CONG. REC. 26151, 92d Cong. 2d Sess., Aug. 1, 1972. See also 106 CONG. REC. 2644-73, 86th Cong. 2d Sess., Feb. 16, 1960, where, pursuant to a special order, a Member was recognized to speak in commemoration of Lithuanian Independence Day before the call of the Private Calendar; and 106 CONG. REC. 18389, 86th Cong. 2d Sess., Aug. 30, 1960, where, by unanimous consent, a Member was allowed to speak out of order during the call of the Private Calendar.

§ 5.4 Pursuant to Rule XXIV clause 6, the Speaker must direct the call of the Private Calendar on the first Tuesday of each month immediately after disposition of a matter requiring referral from the Speaker's table and prior to consideration of unfinished business (including postponed veto messages), which is next in order under Rule XXIV clause 1. 121 CONG. REC. 32036, 32041, 94th Cong. 1st Sess., Oct. 7, 1975.

§ 5.5 The Speaker declined to permit a Member recognized for a one-minute speech to yield to another Member to make a motion to restore a bill to the Private Calendar. 114 CONG. REC. 21326, 90th Cong. 2d Sess., July 15, 1968 [H.R. 16187], where the Speaker held that a motion relating to the order of business on the Private Calendar was not in order.

§ 5.6 The call of the Private Calendar on the first Tuesday of the month pursuant to clause 6 Rule XXIV takes precedence over a privileged motion under clause 5 Rule XXII to dis-

charge a committee from consideration of a resolution of inquiry. 117 CONG. REC. 29060-64, 92d Cong. 1st Sess., Aug. 3, 1971.

§ 5.7 The rules do not permit the offering of pro forma amendments to bills on the Private Calendar. 106 CONG. REC. 18389, 86th Cong. 2d Sess., Aug. 30, 1960; 113 CONG. REC. 36535-37, 90th Cong. 1st Sess., Dec. 14, 1967.

§ 6. — Objectors and Objections

§ 6.1 The majority leader and minority leader each appoint three Members to serve as Private Calendar objectors during a Congress. The objectors have the responsibility of carefully studying all bills which are placed on the Private Calendar. When the Private Calendar is called, the objectors are on the floor ready to object to the consideration of any private bill which they feel is objectionable for any reason. The great volume of private bills and the desire to have an opportunity to study them carefully before they are called on the Private Calendar has lead to the adoption of certain ground rules. Those rules limit consideration of bills placed on the Private Calendar only shortly before the calendar is called. 111 CONG. REC. 3914, 89th Cong. 1st Sess., Mar. 2, 1965, where the Private Calendar objectors announced a policy of considering only those bills which have been on the Calendar at least seven days before its call. For similar ground rules adopted by the 91st Congress, see 115 CONG. REC. 6656, 91st Cong. 1st Sess., Mar. 18, 1969. In the 95th Congress, the senior Democratic Official Objector for the Private Calendar took a one-minute speech to review the history and operation of the Private Calendar and to announce the policy of the Private Calendar Objectors Committee as to eligible bills. 123 CONG. REC. 12619, 95th Cong. 1st Sess., Apr. 28, 1977.

§ 6.2 Where an objector on the Private Calendar was appointed to the Subcommittee on Private Claims of the Committee on the Judiciary, he was replaced as an objector. 111 CONG. REC. 2468, 89th Cong. 1st Sess., Feb. 10, 1965.

§ 6.3 Where two objections are raised to the consideration of a bill on the Private Calendar, the bill is (under clause 6 Rule XXIV) recommitted to the committee that reported it. 115 CONG. REC. 28801, 91st Cong. 1st Sess., Oct. 7, 1969.

§ 6.4 By unanimous consent, the call of the Private Calendar was dispensed with since objectors had been notified that all bills thereon would be objected to or passed over. 110 CONG. REC. 8524, 88th Cong. 2d Sess., Apr. 21, 1964.

§ 6.5 Reservations of objection to the consideration of bills are not in order during the call of the Private Calendar. 110 CONG. REC. 8524, 88th Cong. 2d Sess., Apr. 21, 1964.

§ 6.6 The rule providing for the call of the Private Calendar (clause 6 Rule XXIV) prohibits the Speaker from entertaining a reservation of objection, either to the consideration of the bill or to a unanimous-consent request that the bill be passed over without prejudice. 115 CONG. REC. 32889, 91st Cong. 1st Sess., Nov. 4, 1969. 123 CONG. REC. 17696, 95th Cong. 1st Sess., June 7, 1977 [H.R. 2563].

§ 6.7 During the call of the Private Calendar under the provisions of clause 6 Rule XXIV, the House, by unanimous consent, agreed that all further bills on the calendar be passed over without prejudice. 117 CONG. REC. 23534, 92d Cong. 1st Sess., July 6, 1971.

§ 6.8 After committee amendments to a bill on the Private Calendar have been adopted, it is too late to ask unanimous consent that the bill be passed over without prejudice. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979 [H.R. 2148].

§ 7. — Omnibus Bills

§ 7.1 On the third Tuesday of each month omnibus bills embodying private bills previously objected to have preference on the Private Calendar. Such omnibus bills are read by paragraph, and no amendments are entertained except to strike out or reduce amounts or provide limitations. Matter so stricken out shall not again be included in an omnibus bill during the session. Debate is limited to motions allowable under the rule and does not admit motions to strike out the last word or reservation of objections. The rules prohibit the Speaker from recognizing Members for statements or for requests for unanimous consent for debate. Omnibus bills so passed are thereupon resolved into their component bills, which are engrossed separately and disposed of as if passed severally. See clause 6 Rule XXIV, and 117 CONG. REC. 9747, 92d Cong. 1st Sess., Apr. 6, 1971.

§ 7.2 Where the Speaker in his discretion directs the Clerk to call the Private Calendar on the third Tuesday of the month, omnibus bills on the calendar are called before individual bills thereon. 116 CONG. REC. 3605-13, 91st Cong. 2d Sess., Feb. 17, 1970; see also 112 CONG. REC. 26081, 89th Cong. 2d Sess., Oct. 11, 1966, where several bills of a similar nature on the Private Calendar were, by unanimous consent, considered en bloc.

§ 7.3 An omnibus private bill is normally passed over by the Clerk when the Private Calendar is called on the first Tuesday of the month; but the House sometimes prescribes, by special order, that such omnibus bills shall be passed over. 114 CONG. REC. 19106, 90th Cong. 2d Sess., June 27, 1968.

§ 7.4 An omnibus private bill, in order for consideration on the third Tuesday of the month under clause 6 Rule XXIV, was passed over by unanimous consent. 114 CONG. REC. 17064, 90th Cong. 2d Sess., June 13, 1968.

§ 7.5 *Note:* A private bill, previously recommitted under Rule XXIV, was rereported and again placed on the Private Calendar and was, in addition, included as part of an omnibus claims bill. 114 CONG. REC. 27191, 90th Cong. 2d Sess., Sept. 17, 1968, where the bill on the Private Calendar was not called when reached since it had been incorporated in and passed as part of an omnibus bill.

§ 7.6 Amendments to omnibus private bills are strictly limited by rule to those striking out or reducing amounts of money carried in the bill or to provide limitations; and debate on these permissible motions is under the five-minute rule. 114 CONG. REC. 27165 et seq., 90th Cong. 2d Sess., Sept. 17, 1968.

§ 7.7 After passage of an omnibus bill, it is resolved into the various private bills of which it is composed and each is engrossed and messaged to the Senate as if individually passed; hence it is possible, after passage of the omnibus bill, to lay on the table a private House or Senate bill which was included therein. 114 CONG. REC. 27181, 90th Cong. 2d Sess., Sept. 17, 1968.

Chapter 23

Motions and Requests

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A. Introductory

§ 1. In General; Offering Motions

§ 1.1 *Note:* The motions allowed in the House are in general provided for in the House rules. However, where a motion not in order under the rules of the House is, without objection, considered and agreed to, it controls the procedure of the House until carried out, unless the House takes affirmative action to the contrary.

§ 1.2 The motion as stated by the Chair in putting the question and not as stated by the Member in offering the motion, is the proposition voted on. 111 CONG. REC. 6101, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362].

§ 1.3 The Chair may point out that a motion before the Committee of the Whole is not in proper form and then, when the proponent of the motion has modified it to conform with the rules, put the question thereon. 115 CONG. REC. 38844, 91st Cong. 1st Sess., Dec. 12, 1969 [H.R. 12321].

§ 1.4 Where there is a misunderstanding about the wording of a pending motion, the Chair may restate the motion, but it is not in order to ask that the motion be rereported by the Clerk. 111 CONG. REC. 6101, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362].

§ 1.5 A pending motion may be reread, by unanimous consent, even though all time for debate thereon may have expired. 113 CONG. REC. 25201, 25211, 90th Cong. 1st Sess., Sept. 12, 1967.

§ 1.6 In the House or Committee of the Whole, a motion must be reduced to writing on the demand of any Member under Rule XVI clause 1. 122 CONG. REC. 27832, 94th Cong. 2d Sess., Aug. 26, 1976 (motion to lay on the table); 123 CONG. REC. 15418, 95th Cong. 1st Sess., May 18, 1977 (motion to limit debate under the five-minute rule in Committee of the Whole). See also 123 CONG. REC. 9575, 95th Cong. 1st Sess., Mar. 30, 1977. See 124 CONG. REC. 10983, 95th Cong. 2d Sess., Apr. 20, 1978 (motion to dispense with further proceedings under a call of the House).

§ 1.7 The incidental motions permitted under Rule XVI clause 4, such as the motion to lay on the table, may be invoked in the House in the disposition of a privileged resolution. 122 CONG. REC. 35111, 94th Cong. 2d Sess., Oct. 1, 1976 [H. Res. 1392].

§ 2. Unanimous-consent Requests

§ 2.1 Unanimous-consent requests are ordinarily made orally from the floor. However, where a Member seeks, by unanimous consent, to modify an amendment he has offered, the Chair may request that Member to submit the proposed modification in writing to be read by the Clerk. 118 CONG. REC. 31404, 92d Cong. 2d Sess., Sept. 20, 1972 [H.R. 15003].

§ 2.2 The Speaker does not entertain unanimous-consent requests put in the alternative but requires the Member to put the requests one at a time. 109 CONG. REC. 20744, 88th Cong. 1st Sess., Oct. 31, 1963.

§ 2.3 The Speaker announced that he would recognize Members to make unanimous-consent requests relating to the needs of a particular Member prior to recognizing Members for unanimous-consent requests relating to legislative business. 118 CONG. REC. 34039, 92d Cong. 2d Sess., Oct. 5, 1972.

§ 2.4 During the pendency of a unanimous-consent request, the Speaker may refuse to entertain a second unanimous-consent request. 118 CONG. REC. 36500, 92d Cong. 2d Sess., Oct. 14, 1972. Thus, while there is pending a unanimous-consent request for additional time under the five-minute rule, the Chair will dispose of that request before recognizing an-

other Member to ask unanimous consent to limit debate on the pending amendment. 123 CONG. REC. 14111, 95th Cong. 1st Sess., May 10, 1977 [H.R. 6655]. Similarly, a unanimous-consent request to modify an amendment is not in order pending a unanimous-consent request to dispense with the reading of the amendment. 123 CONG. REC. p. 35389, 95th Cong. 1st Sess., Oct. 27, 1977 [H.R. 9346].

§ 2.5 Recognition for a reservation of objection to a unanimous-consent request is within the discretion of the Chair; in this respect, the Chair seeks to protect the right of Members to make timely reservations, but he may refuse to permit debate under such reservation and immediately put the question on the request. 116 CONG. REC. 25620, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515]. In order to obtain recognition to reserve the right to object to a unanimous-consent request, a Member must be on his feet seeking recognition for that purpose when the Chair inquires whether there is an objection to the request. 123 CONG. REC. 20583, 20584, 95th Cong. 1st Sess., June 23, 1977 [H.R. 7797]. A reservation of the right to object to a unanimous-consent request is not in order until the request has been put by the Chair. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979 [H.R. 111].

§ 2.6 In objecting to a unanimous-consent request a Member must rise from his seat and address the Chair. 113 CONG. REC. 15, 23, 90th Cong. 1st Sess., Jan. 10, 1967. 122 CONG. REC. 11622, 94th Cong. 2d Sess., Apr. 28, 1976; 122 CONG. REC. 24768, 94th Cong. 2d Sess., July 30, 1976. Unanimous-consent requests relating to House business, as distinguished from those of a personal nature, should be made in such manner that they can be heard by all Members. 124 CONG. REC. 34085, 95th Cong. 2d Sess., Oct. 6, 1978. The Speaker normally asks members making business requests to use a microphone.

§ 2.7 Recognition for a reservation of objection to a unanimous-consent request is within the discretion of the Speaker, but sometimes he refuses to permit debate under such a reservation and immediately puts the question. 115 CONG. REC. 36748, 91st Cong. 1st Sess., Dec. 3, 1969.

§ 2.8 Debate under a reservation of objection to a unanimous-consent request proceeds at the will of the House by unanimous consent and may not continue when the regular order is demanded. 114 CONG. REC. 23935, 23944, 90th Cong. 2d Sess., July 29, 1968; 121 CONG. REC. 18806, 94th Cong. 1st Sess., June 13, 1975; 121 CONG. REC. 40711, 94th Cong. 1st Sess., Dec. 15, 1975. Where the regular order is demanded, further reservation of the right to object to the request is precluded and the Member must either object or permit the request to be granted. 117 CONG. REC. 1713, 92d Cong. 1st Sess., Feb. 4, 1971; 124 CONG. REC. 10983, 95th Cong. 2d Sess., Apr. 20, 1978. Further reservation of the right to object is likewise precluded where another Member objects to the request. 123 CONG. REC. 20583, 20584, 95th Cong. 1st Sess., June 23, 1977.

§ 2.9 A Member who reserves the right to object to a unanimous-consent request loses control of the floor when the request is withdrawn. 110 CONG. REC. 2614, 88th Cong. 2d Sess., Feb. 8, 1964 [H.R. 7152].

§ 2.10 A Member who has a unanimous-consent request pending may withdraw that request and unanimous consent of the House is not required. 110 CONG. REC. 2614, 88th Cong. 2d Sess., Feb. 8, 1964 [H.R. 7152, Civil Rights Act of 1963]; 114 CONG. REC. 6474-80, 6489-92, 90th Cong. 2d Sess., Mar. 14, 1968; 122 CONG. REC. 20365, 94th Cong. 2d Sess., June 24, 1976.

§ 2.11 Where a Member is proceeding under a reservation of the right to object to a unanimous-consent request, he must confine his remarks to the question under debate (see Rule XIV clause 1). 122 CONG. REC. 31875, 94th Cong. 2d Sess., Sept. 22, 1976.

§ 2.12 By unanimous consent, the House may vacate the proceedings whereby a bill was passed so that the Chair can entertain a motion to recommit. 116 CONG. REC. 8568, 91st Cong. 2d Sess., Mar. 23, 1970 [H.R. 15728].

§ 2.13 Proceedings whereby a bill has been engrossed, read a third time and passed, and the motion to reconsider laid on the table, may be vacated only by unanimous consent. 119 CONG. REC. 3929, 3930, 93d Cong. 1st Sess., Feb. 8, 1973 [H.J. Res. 331].

§ 2.14 By unanimous consent, proceedings whereby a bill had been read a third time and passed, and then laid on the table, were vacated and the bill was again, by unanimous consent, read a third time and passed. 116 CONG. REC. 14928, 14951, 91st Cong. 2d Sess., May 12, 1970 [H.R. 17138].

§ 2.15 By unanimous consent, the House agreed to vacate the proceedings whereby it had agreed to a resolution, then reconsidered the resolution and agreed to it with an amendment. 115 CONG. REC. 2433, 91st Cong. 1st Sess., Feb. 3, 1969 [H. Res. 176].

§ 2.16 By unanimous consent, the proceedings whereby a Senate bill had been considered, amended (to include the provisions of a similar House-passed bill), and passed, were vacated, and the bill was indefinitely postponed. 116 CONG. REC. 14928, 14951, 15145, 91st Cong. 2d Sess., May 12, 1970 [H.R. 17138; S. 2694]. *Note:* After passage of a Senate bill it was found that it contained a tax provision and therefore could not under the Constitution originate in the Senate. After vacating procedure on the passage of the Senate bill, the House repassed its own bill and sent it to the Senate.

§ 2.17 The proceedings whereby a motion to suspend the rules has been agreed to (and a motion to reconsider that vote laid upon the table) may be vacated by unanimous consent. 122 CONG. REC. 22892, 94th Cong. 2d Sess., July 20, 1976.

§ 2.18 Where the House by unanimous consent vacates the proceedings by which a bill has been passed and a motion to reconsider laid on the table, the Chair puts the question anew on passage of the bill. 123 CONG. REC. 34223, 34224, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 1037]. In this instance, the House passed a bill by voice vote, vacated passage of the bill by unanimous consent, and then rejected the bill on a yea and nay vote. See also 122 CONG. REC. 22892, 94th Cong. 2d Sess., July 20, 1976 [H.R. 14291], where by unanimous consent the House vacated proceedings whereby it had passed a bill under suspension of the rules by a voice vote to permit the Speaker to put the question on the motion de novo (to permit a demand for the yeas and nays on the motion).

§ 2.19 By unanimous consent, the House vacated proceedings whereby a House bill had been read a third time and passed, the motion to reconsider tabled, and the bill then laid on the table; the bill was again read a third time and passed. 116 CONG. REC. 40096, 91st Cong. 2d Sess., Dec. 7, 1970 [H.R. 19504].

§ 3. Withdrawal of Motions

§ 3.1 A motion may be withdrawn in the House before action is taken thereon. 115 CONG. REC. 38543, 91st Cong. 1st Sess., Dec. 11, 1969 [H.R. 13270]. Unanimous consent is not required to withdraw a motion before a decision is made on the motion or there is an amendment thereof. 121 CONG. REC. 8897, 94th Cong. 1st Sess., Mar. 26, 1975; 122 CONG. REC. 31902, 94th Cong. 2d Sess., Sept. 22, 1976.

§ 3.2 Unanimous consent to withdraw a motion in the House is required where the yeas and nays have been ordered on the motion. 116 CONG. REC. 23524, 91st Cong. 2d Sess., July 9, 1970.

§ 3.3 A motion may be withdrawn in the Committee of the Whole only by unanimous consent. 111 CONG. REC. 6101, 89th Cong. 1st Sess., Mar. 26, 1965.

§ 3.4 An amendment to a joint resolution being considered in the House as in Committee of the Whole may be withdrawn before action is had thereon, and unanimous consent is not required. 119 CONG. REC. 21305 et seq., 93d Cong. 1st Sess., June 26, 1973.

§ 3.5 The ordering of a second on a motion to suspend the rules is such a decision as precludes withdrawal as a matter of right under Rule XVI clause 2. 123 CONG. REC. 13935, 95th Cong. 1st Sess., May 9, 1977.

§ 3.6 A Member having the floor in the House first moved the previous question and then, at the Chair's suggestion, withdrew the motion and yielded additional time for debate. 121 CONG. REC. 8897, 94th Cong. 1st Sess., Mar. 26, 1975 [H. Res. 358].

§ 3.7 A motion may be withdrawn in the House prior to action thereon even though it is under consideration as unfinished business from the preceding day. 123 CONG. REC. 19693, 95th Cong. 1st Sess., June 17, 1977. *Note:* Postponement to a day certain is not such action on a motion in the House as will prevent withdrawal of the motion when it comes up as unfinished business on the subsequent day.

§ 3.8 A motion may be withdrawn in the House even after a voice and a division vote thereon where the House has not made a final decision on the motion, where the Chair has not announced the result, and where another type of vote might be had on the motion. 123 CONG REC. 30290, 95th Cong. 1st Sess., Sept. 22, 1977 (motion to resolve into Committee of the Whole). However, in such instances the Chair may decline to permit a withdrawal while he is counting the division vote. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 13, 1979 (motion for a call of the House).

B. THE MOTION TO TABLE

§ 4. In General

§ 4.1 An affirmative vote on a motion to lay a proposition on the table is equivalent to final adverse disposition thereof (and does not merely represent a refusal to consider it). 124 CONG. REC. 26204, 95th Cong. 2d Sess., Aug. 15, 1978 [H.J. Res. 638, the Equal Rights Amendment Extension]. See also 116 CONG. REC. 41372-74, 91st Cong. 2d Sess., Dec. 14, 1970 [H. Res. 1306], ruling that the adoption of a motion to lay a resolution on the table results in the final adverse disposition of the resolution.

§ 4.2 By unanimous consent, the proceedings whereby a bill was laid on the table were vacated; the House then amended and passed the bill. 105 CONG. REC. 7310-13, 86th Cong. 1st Sess., May 4, 1959. *Note:* On April 30, 1959, while the House had under consideration H.R. 5610, the Senate messaged to the House S. 226, a measure differing in only one respect from the House bill as it had been amended on the floor. After passage of H.R. 5610, a motion was adopted to strke out all after the enacting clause in S. 226 and insert the language of the House bill, and the House bill was then laid on the table. The following day, shortly before the Senate bill was to be messaged to the Senate, a question was raised as to the constitutionality of the Senate-passed bill because of a tax feature therein. The proceedings in the House on May 4, 1959, were necessitated by the fact that all bills containing revenue provisions must, under Art. I, § 7 of the Constitution, originate in the House. Following the amendment of the House bill and the indefinite postponement of the Senate bill, the House bill, H.R. 5610, was messaged to the Senate on May 5, 1959.

§ 4.3 The motion to lay on the table a motion to reconsider is not debatable. 117 CONG. REC. 45875, 92d Cong. 1st Sess., Dec. 9, 1971]. The motion to lay on the table comes too late after the Chair has put the question on the motion to reconsider and asked for the "ayes" on that motion. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.J. Res. 399].

§ 4.4 The motion to table is not admitted in the Committee of the Whole. 112 CONG. REC. 25583, 89th Cong. 2d Sess., Oct. 6, 1966; 124 CONG. REC. 15095, 95th Cong. 2d Sess., May 23, 1978.

§ 4.5 A motion to table a pending amendment and all amendments thereto is not in order in Committee of the Whole. 116 CONG. REC. 13782, 91st Cong. 2d Sess., Apr. 30, 1970.

§ 4.6 A resolution of inquiry reported adversely by a committee is subject to a motion to table. 117 CONG. REC. 23030, 92d Cong. 1st Sess., June 30, 1971; 117 CONG. REC. 34266, 92d Cong. 1st Sess., Sept. 30, 1971; 118 CONG. REC. 28365, 92d Cong. 2d Sess., Aug. 16, 1972; 119 CONG. REC. 6383-85, 93d Cong. 1st Sess., Mar. 6, 1973.

§ 4.7 A privileged resolution is subject to the motion to table, which may be offered after the resolution is called up for consideration in the House but before debate thereon. 124 CONG. REC. 20606, 95th Cong. 2d Sess., July 13, 1978 [H. Res. 1267], where the House laid on the table a resolution impeaching the U.S. Ambassador to the United Nations (Andrew Young).

§ 4.8 A motion to reconsider a vote on a motion that the House resolve itself into the Committee of the Whole is subject to a motion to lay on the table. 124 CONG. REC. 10990, 95th Cong. 2d Sess., Apr. 20, 1978.

§ 4.9 A resolution presenting a question of the privileges of the House is subject to disposition by a motion to lay on the table before debate thereon. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 30, 1979 [H. Res. 391].

§ 5. As Related to Other Motions

§ 5.1 Under Rule XVI clause 4, when a question is under debate the motion to lay that question on the table takes precedence over the motion for the previous question. 116 CONG. REC. 41372, 91st Cong. 2d Sess., Dec. 14, 1970; 122 CONG. REC. 31881, 94th Cong. 2d Sess., Sept. 22, 1976 (indicating that the motion to lay on the table applies to a motion to instruct conferees); 123 CONG. REC. 33434, 95th Cong. 1st Sess., Oct. 12, 1977.

§ 5.2 The motion to lay on the table is of higher privilege than the demand for the previous question. 111 CONG. REC. 23600, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 5.3 Pending the demand for the previous question on a resolution or motion which is under debate, the motion to lay the resolution or motion on the table is preferential and in order. 116 CONG. REC. 41372-74, 91st Cong. 2d Sess., Dec. 14, 1970 [H. Res. 1306]; 122 CONG. REC. 31881, 94th Cong. 2d Sess., Sept. 22, 1976. *Note:* If the previous question had been ordered, then the motion to lay on the table would no longer have been preferential since the primary motion or resolution would then not have been "under debate" under Rule XVI clause 4. The previous question having been ordered on a bill to final passage, the motion to lay the bill on the table may not then be offered pending a motion to reconsider the vote on the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept 20, 1979 H.J. Res. 399].

§ 5.4 A motion to lay on the table a motion to dispense with further proceedings under a call of the House is not in order, since the motion to dispense with further proceedings is neither debatable nor amendable. 114 CONG. REC.

26453, 90th Cong. 2d Sess., Sept. 11, 1968; 116 CONG. REC. 42504, 91st Cong. 2d Sess., Dec. 18, 1970.

§ 5.5 The motion to lay on the table is not in order when there is pending a motion that the House resolve itself into a Committee of the Whole for consideration of a resolution disapproving a reorganization plan. 107 CONG. REC. 9775-77, 87th Cong. 1st Sess., June 8, 1961.

§ 5.6 A privileged motion to dispose of a Senate amendment in disagreement, such as the motion to recede and concur, is subject to the motion to table. 124 CONG. REC. 4072, 95th Cong. 2d Sess., Feb. 22, 1978 [H.R. 9375]. See 124 CONG. REC. 13921, 95th Cong. 2d Sess., May 16, 1978, indicating that a motion to concur in a Senate amendment is subject to a motion to lay on the table. And a motion to lay a Senate amendment in disagreement on the table takes precedence over a motion that the House insist on its disagreement thereto. 124 CONG. REC.32334, 95th Cong. 2d Sess., Sept. 28, 1978.

C. THE MOTION FOR THE PREVIOUS QUESTION

§ 6. In General

§ 6.1 The previous question is a fundamental rule of general parliamentary law and is applicable in the House prior to the adoption of the rules. 111 CONG. REC. 19, 89th Cong. 1st Sess., Jan. 4, 1965. See also 117 CONG. REC. 140-44, 92d Cong. 1st Sess., Jan. 22, 1971, where a Member offering an amendment to delete the "21-day rule" provision from the resolution adopting the rules moved the previous question on his amendment and the resolution in order to preclude further amendment to the resolution.

§ 6.2 The motion for the previous question is not entertained in the Committee of the Whole. 112 CONG. REC. 18111-15, 89th Cong. 2d Sess., Aug. 3, 1966 [during consideration of H.R. 14765, Civil Rights Act, 1966]; 113 CONG. REC. 32964, 90th Cong. 1st Sess., Nov. 17, 1967 [H.R. 13893, foreign aid appropriations, fiscal 1968]; 121 CONG. REC. 22374, 94th Cong. 1st Sess., July 11, 1975 [H.R. 5546, Health Manpower Act of 1975].

§ 6.3 The previous question is in order in the House as in the Committee of the Whole at any time (when another Member does not have the floor). 123 CONG. REC. 36613, 95th Cong. 1st Sess., Nov. 2, 1977 [H.J. Res. 621]. See also 122 CONG. REC. 6789, 94th Cong. 2d Sess., Mar. 17, 1976 [H. Con. Res. 580], indicating that, during consideration of a measure in the House as in Committee of the Whole, the previous question may be moved on the pending amendment or on the measure and all amendments thereto.

§ 6.4 The motion for the previous question may not be applied to a resolution brought up under a motion to discharge since the resolution itself is not debatable under the applicable rule. 111 CONG. REC. 25180-85, 89th Cong. 1st Sess., Sept. 27, 1965.

§ 6.5 The previous question, although moved and rejected, may be renewed after debate or other intervening business. 115 CONG. REC. 25-27, 91st Cong. 1st Sess., Jan. 3, 1969.

§ 6.6 The action of the House in ordering the previous question may, by unanimous consent, be vacated. 106 CONG. REC. 17869, 86th Cong. 2d Sess., Aug. 26, 1960. 123 CONG. REC. 32600, 95th Cong. 1st Sess., Oct. 6, 1977 [H. Res. 776].

§ 6.7 A Member calling up a privileged resolution in the House may move the previous question at any time (though not to take another Member from his feet) notwithstanding his prior announcement that he would allocate

debate time to another Member. 123 CONG. REC. 6816, 95th Cong. 1st Sess., Mar. 9, 1977 [H. Res. 383, to establish a Select Committee on Ethics].

§ 6.8 Where a special order providing for the consideration of a matter in the House states that the previous question shall be considered as ordered thereon without intervening motion, and does not simply state that the previous question be considered as ordered after debate, the previous question is considered as ordered from the beginning of the debate, precluding the consideration of any intervening motion, such as the motion to postpone. 126 CONG REC. p. ....., 96th Cong. 2d Sess., Mar. 12, 1980. Compare 126 CONG REC. p. ....., 96th Cong. 2d Sess., Mar. 26, 1980 [H. Res. 619], where the previous question was ordered "after debate," thus permitting intevening motions under Rule XVI clause 4.

§ 7. Precedence and Priorities; Relation to Other Motions

§ 7.1 A motion for the previous question takes precedence over a motion to amend. 113 CONG. REC. 5038, 90th Cong. 1st Sess., Mar. 1, 1967; 117 CONG. REC. 39944, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191]. The motion for the previous question takes precedence over an amendment under Rule XVI clause 4, and may be offered by any Member. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 24, 1979 [H.J. Res. 74].

§ 7.2 The previous question may be moved pending the offering of an amendment by a Member to whom the floor was yielded for that purpose, and the previous question must be voted down before that Member is recognized to offer the amendment. 117 CONG. REC. 39944, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191, proposing an amendment to the Constitution relative to nondenominational prayer in public buildings].

§ 7.3 If the motion for the previous question is voted down, a resolution before the House is subject to amendment; but if the amendment is ruled out on a point of order, the previous question may again be moved and takes precedence over the offering of another amendment. 115 CONG. REC. 25-27, 91st Cong. 1st Sess., Jan. 3, 1969.

§ 7.4 While the previous question takes precedence over a motion to amend, the proponent of an amendment, having been recognized for debate, may not be taken from the floor if another Member then seeks to move the previous question. 114 CONG. REC. 12262, 90th Cong. 2d Sess., May 8, 1968 [H.R. 17023]. And a Member recognized to debate a pro forma amendment may not be taken from the floor by the motion for the previous question. 118 CONG. REC. 16154, 16157, 92d Cong. 2d Sess., May 8, 1972 [H.R. 14718].

§ 7.5 While the Member in charge of a resolution in the House ordinarily loses the floor and the right to move the previous question when he yields for amendment, he may move the previous question on the resolution following disposition of the amendment where the proponent of the amendment has not done so and where no other Member seeks recognition. 117 CONG. REC. 12489, 12504, 92d Cong. 1st Sess., Apr. 29, 1971 [H. Res. 274]; 117 CONG. REC. 17502, 17504, 92d Cong. 1st Sess., June 2, 1971 [H. Res. 449].

§ 7.6 The motion for the previous question takes precedence over an amendment to the motion to recommit. 115 CONG. REC. 23143, 91st Cong. 1st Sess., Aug. 11, 1969 [H.R. 12982].

§ 7.7 A motion to recommit a resolution is properly made after the previous question is ordered. 111 CONG. REC. 24291, 89th Cong. 1st Sess., Sept. 17, 1965 [H. Res. 585].

§ 7.8 A Member having the floor to offer a motion may move the previous question there-

on, although another claims recognition to offer a motion of higher privilege; but the motion of higher privilege must be put before the previous question. 111 CONG. REC. 23600, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 7.9 A question involving the privileges of the House (the swearing in of a Member-elect) has been permitted after the previous question has been ordered on the pending question. 115 CONG. REC. 28487, 91st Cong. 1st Sess., Oct. 3, 1969.

§ 7.10 A motion to lay on the table takes precedence over a motion for the previous question, but if the motion to table is rejected, the question recurs on the pending motion for the previous question. 118 CONG. REC. 16838-42, 92d Cong. 2d Sess., May 11, 1972 [S. 659]. See also 116 CONG. REC. 41372-74, 91st Cong. 2d Sess., Dec. 14, 1970 [H. Res. 1306].

§ 7.11 A message from the Senate may be received by the House after the previous question has been ordered, pending the question on passage of the bill. 115 CONG. REC. 28487, 91st Cong. 1st Sess., Oct. 3, 1969.

§ 8. Effect of Motion

§ 8.1 The adoption of the previous question on a proposition considered in the House precludes further debate or amendment and brings the House to an immediate vote thereon. 106 CONG. REC. 17869, 86th Cong. 2d Sess., Aug. 26, 1960; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 24, 1979.

§ 8.2 The motion to postpone further consideration of a matter is not in order after the previous question has been ordered and the matter is therefore no longer under debate. 120 CONG. REC. 35640, 93d Cong. 2d Sess., Oct. 15, 1974].

§ 8.3 The Member in control may move the previous question and thereby terminate debate (111 CONG. REC. 20, 89th Cong. 1st Sess., Jan. 4, 1965), even if the effect of the motion is to terminate utilization of debate time he has previously yielded to the minority. 123 CONG. REC. 6816, 95th Cong. 1st Sess., Mar. 9, 1977 [H. Res. 383].

§ 8.4 Where the previous question is moved on a resolution and the pending amendment thereto, no further debate is in order unless the previous question is rejected. 111 CONG. REC. 24290, 89th Cong. 1st Sess., Sept. 17, 1965 [H. Res. 585].

§ 8.5 After the previous question has been demanded on a resolution, it is not subject to amendment unless the previous question is rejected. 111 CONG. REC. 19, 89th Cong. 1st Sess., Jan. 4, 1965.

§ 8.6 When the Chairman of the Committee of the Whole reports a bill back to the House pursuant to a resolution providing that the previous question shall be considered as ordered, further debate or amendments in the House are thereby precluded; and the Speaker has declined to entertain unanimous-consent requests that further amendments be in order. 106 CONG. REC. 18748, 86th Cong. 2d Sess., Aug. 31, 1960; 111 CONG. REC. 25438, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644].

§ 8.7 The previous question may be moved on a pending amendment or on the amendment and the resolution to which offered; and if the latter motion is made, no further amendments to the resolution may be offered if the previous question is ordered. 113 CONG. REC. 31-33, 90th Cong. 1st Sess., Jan. 10, 1967 [H. Res. 7, adopting rules for the 90th Congress].

§ 8.8 Where the House had ordered the previous question on an amendment in the nature of a substitute for a resolution and on the resolution, the Speaker indicated that no further amendment to the resolution would be in order. 119 CONG. REC. 19337, 19342-44, 93d Cong. 1st Sess., June 13, 1973 [H. Res. 437].

§ 8.9 A motion in the House to strike out the enacting clause is not in order where the previous question has been ordered on the bill and amendments thereto to final passage. 116 CONG. REC. 12092, 91st Cong. 2d Sess., Apr. 16, 1970 [H.R. 16311].

§ 8.10 When the previous question is ordered on an amendment and the resolution to which it is offered, further amendments are precluded and, following acceptance or rejection of the amendment, the vote recurs immediately on the resolution. 113 CONG. REC. 5019, 5036-38, 90th Cong. 1st Sess., Mar. 1, 1967 [H. Res. 278]. 116 CONG. REC. 37839, 91st Cong. 2d Sess., Nov. 18, 1970 [H. Res. 1225].

§ 8.11 Ordering the previous question on a pending resolution does not apply to the preamble thereto; and a motion to order the previous question on the preamble is in order if the preamble is to be amended following the vote whereby the resolution is agreed to. 113 CONG. REC. 5038, 90th Cong. 1st Sess., Mar. 1, 1967 [H. Res. 278].

§ 8.12 An amendable motion offered in the House is not subject to amendment after the previous question has been ordered thereon. 124 CONG. REC. 4074, 95th Cong. 2d Sess., Feb. 22, 1978. See also § 8.5, supra.

§ 8.13 The House having voted to reconsider a motion on which the previous question had been ordered when first voted upon, no debate is in order except by unanimous consent. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 660]; 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980.

§ 9. Debate on Motion

§ 9.1 A motion for the previous question is not debatable (clause 4 Rule XVI). 111 CONG. REC. 23601, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 9.2 A motion for the previous question is not debatable, and a Member is not entitled to claim the right to debate it under clause 3 of Rule XXVII. 111 CONG. REC. 23601, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 9.3 Prior to adoption of rules, when the previous question is moved, the 40 minutes' debate permitted by House rules [clause 3 Rule XXVII] during the previous Congress does not apply. 105 CONG. REC. 14, 86th Cong. 1st Sess., Jan. 7, 1959.

§ 9.4 Where the previous question is ordered on a debatable motion which has not in fact been debated, a Member may demand the right to debate that motion, and the 40 minutes permitted under the rule authorizing this procedure (clause 3 Rule XXVII) is divided between the person demanding the time and some Member who represents the opposing view of the question. 111 CONG. REC. 23602-06, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 10. Effect of Rejection of Motion

§ 10.1 A resolution considered in the House by unanimous consent is subject to amendment if the previous question is rejected on the resolution. 119 CONG. REC. 33348, 93d Cong. 1st Sess., Oct. 9, 1973 [H. Res. 582]. The motion for the previous question having been rejected, the Chair recognizes the Member who leads the opposition thereto who may offer an amendment and is recognized for one hour. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 13, 1979.

§ 10.2 After the previous question is moved, an amendment may be offered to a pending resolution if the previous question is voted down. 113 CONG. REC. 6035-42, 6048, 90th Cong. 1st Sess., Mar. 9, 1967 [H. Res. 376].

§ 10.3 If the previous question on an appropriation bill is voted down, an amendment to

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the bill may be offered in the House. 115 CONG. REC. 29219, 91st Cong. 1st Sess., Oct. 8, 1969 [H.R. 14159].

§ 10.4 In response to parliamentary inquiries the Speaker advised that if the previous question on a privileged resolution reported by the Committee on Rules were voted down: (1) the resolution would be open to further consideration, amendment, and debate; (2) a motion to table would be in order and would be preferential; (3) the Chair, under the hour rule, would recognize the Member who appeared to be leading the opposition. 112 CONG. REC. 27713, 27725-29, 89th Cong. 2d Sess., Oct. 19, 1966 [H. Res. 1013].

§ 10.5 The motion for the previous question having been rejected, the Speaker recognized the minority leader to offer an amendment to the pending resolution. 113 CONG. REC. 24-26, 90th Cong. 1st Sess., Jan. 10, 1967 [H. Res. 1].

§ 10.6 Where the previous question is rejected on a proposition considered in the House, an amendment may be offered and the Chair recognizes the Member leading the opposition to the previous question. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 24, 1979 [H.J. Res. 74]. In one instance, a majority member who had led the opposition to the previous question on a resolution adopting the rules was recognized, upon rejection of the previous question, to offer an amendment, where no minority member who had been opposed to the previous question sought recognition. 117 CONG. REC. 140, 142–44, 92d Cong. 1st Sess., Jan. 22, 1971 [H. Res. 5].

§ 10.7 Rejection of the motion for the previous question on a measure being considered in the House which is not subject to amendment (under the rules of the House or under statutory provisions enacted under the rule-making power of the House) does not open the measure to amendment but only extends the time for debate thereon. 123 CONG. REC. 36613, 95th Cong. 1st Sess., Nov. 2, 1977 [H.J. Res. 621].

D. THE MOTION TO REFER OR RECOMMIT

§ 11. In General; Purpose and Effect

§ 11.1 *Note:* The motion to recommit (or commit) is authorized under two rules of the House. The House rule governing motions generally provides for one motion to recommit (or commit) after the previous question has been ordered on a bill or joint resolution. (Clause 4 Rule XVI.) The motion to recommit is also authorized under the rule governing the motion for the previous question. (Clause 1 Rule XVII.) Under the latter rule, the motion to recommit is in order with respect to bills, certain resolutions, and even conference reports under certain circumstances. See 111 CONG. REC. 25663, 89th Cong. 1st Sess., Sept. 30, 1965 [recommittal of conference report on H.R. 2530, Immigration and Nationality Act, 1965, held in order]. Since the motion is used in the House, and not in the Committee of the Whole, the Speaker, and not Chairman of the Committee of the Whole, determines the propriety of and recognition for a motion to recommit. 122 CONG. REC. 2649, 94th Cong. 2d Sess., Feb. 5, 1976 [H.R. 9464].

§ 11.2 When a resolution, offered as a question of privilege and involving the expulsion of a Member, is called up in the House under circumstances which would permit it to be debated under the hour rule, a motion to refer under Rule XV clause 4 is in order before debate begins, and the motion to refer is debatable for one hour. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 1, 1979 [H. Res. 142, to expel Rep. Charles Diggs].

§ 11.3 The House by motion recommitted a resolution certifying the contempt of a committee witness to the committee which reported the contumacious conduct. 117 CONG. REC. 24723, 24752, 92d Cong. 1st Sess., July 13, 1971 [H. Res. 534].

§ 11.4 *Note:* Where a bill reported to the House with committee amendments is recommitted, it is again before the committee in its original form—that is, as introduced and referred to that committee in the first instance.

§ 11.5 A motion to recommit a privileged resolution reported by the Committee on Rules is not in order. 116 CONG. REC. 18656-58, 18668-71, 91st Cong. 2d Sess., June 8, 1970 [H. Res. 976].

§ 11.6 The motion to commit in order under clause 1 Rule XVII is not applicable to resolutions concerning the order of business since the rule relating to the consideration of reports from the Committee on Rules (clause 4(b) Rule XI) prohibits entertaining any dilatory motion after consideration of the resolution has begun. 111 CONG. REC. 18087, 89th Cong. 1st Sess., July 26, 1965 [H. Res. 437, providing for the consideration of H.R. 77].

§ 11.7 A motion to recommit is subject to amendment unless the previous question is ordered; and the previous question takes precedence over a motion to amend. 115 CONG. REC. 23143, 91st Cong. 1st Sess., Aug. 11, 1969 [H.R. 12982].

§ 11.8 If the previous question on a motion to recommit is voted down, the motion is open to amendment. 114 CONG. REC. 18940, 90th Cong. 2d Sess., June 26, 1968 [H.R. 18037]; 116 CONG. REC. 14490, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123].

§ 11.9 Where the yeas and nays were refused on a motion to recommit, and instead of putting the question on the motion the Speaker put the question on passage, the failure to put the question on the motion was called to the Speaker's attention and he then withdrew the question on passage. 112 CONG. REC. 9838, 89th Cong. 2d Sess., May 4, 1966 [H.R. 14745].

§ 11.10 A straight motion to recommit a bill is not amendable unless the previous question is voted down on that motion. 120 CONG. REC. 2079-81, 93d Cong. 2d Sess., Feb. 5, 1974 [H.R. 11221]; 120 CONG. REC. 28282, 93d Cong. 2d Sess., Aug. 14, 1974 [H.R. 9989].

§ 11.11 A point of order against an amendment to a motion to recommit is in order immediately following the reading of the amendment. 120 CONG. REC. 2079-81, 93d Cong. 2d Sess., Feb. 5, 1974 [H.R. 11221].

§ 11.12 A Member offered a motion to recommit a bill to two standing committees of the House. 121 CONG. REC. 19787, 94th Cong. 1st Sess., June 19, 1975 [H.R. 6860].

§ 12. When in Order

§ 12.1 The motion to recommit a bill is properly made after the engrossment and third reading of the bill. 107 CONG. REC. 10080, 87th Cong. 1st Sess., June 12, 1961 [H.R. 7053].

§ 12.2 A motion to recommit a bill is not in order before the engrossment and third reading of the bill if the previous question has been ordered on the bill to final passage. 105 CONG. REC. 10561, 86th Cong. 1st Sess., June 11, 1959 [H.R. 7246]; 105 CONG. REC. 15859-67, 86th Cong. 1st Sess., Aug. 13, 1959 [H.R. 8342].

§ 12.3 Further consideration of a general appropriation bill having been postponed to a day certain following engrossment and third reading of the bill, a motion to recommit the bill is in order when consideration resumes on the subsequent day. 119 CONG. REC. 13079, 93d Cong. 1st Sess., Apr. 18, 1973 [H.R. 6691].

§ 12.4 A motion to recommit comes too late when the Chair has put the question on passage and has announced the apparent result of the vote. 115 CONG. REC. 38536, 91st Cong. 1st Sess., Dec. 11, 1969 [H.R. 4249].

§ 12.5 A motion to recommit a resolution is properly made after the previous question is ordered. 107 CONG. REC. 2965, 2989, 87th Cong. 1st Sess., Mar. 1, 1961; 111 CONG. REC. 24291, 89th Cong. 1st Sess., Sept. 17, 1965 [H. Res. 585, dismissing five Mississippi election contests]. Pursuant to Rule XVII clause 1, the motion to commit or refer a resolution is in order pending the previous question or after it is moved or ordered on the resolution. 122 CONG. REC. 3920, 94th Cong. 2d Sess., Feb. 19, 1976 [H. Res. 1042].

§ 12.6 A motion to recommit a conference report is in order after the previous question has been ordered on the adoption of the conference report if the Senate has not adopted the report. 111 CONG. REC. 25663, 89th Cong. 1st Sess., Sept. 30, 1965 [conference report on H.R. 2580].

§ 12.7 The motion for the previous question on a motion to recommit takes precedence over an amendment to the motion to recommit. 120 CONG. REC. 28282, 28283, 93d Cong. 2d Sess., Aug. 14, 1974 [H.R. 9989].

§ 12.8 Under Rule XVII clause 1—permitting a motion to commit with or without instructions pending or following the ordering of the previous question on "passage" of a matter—the motion to commit a Senate amendment to committee (either without instructions or with instructions to report it back forthwith with an amendment) is only in order when it constitutes, in effect, a motion which takes precedence over any pending motion to dispose of the Senate amendment. Thus, a motion to commit a Senate amendment to committee under Rule XVII clause 1, with instructions to report it back forthwith with an amendment, is in order, pending or after the ordering of the previous question on a motion to concur in the Senate amendment, only in situations where an amendment to the Senate amendment would be preferential and not in the third degree. 122 CONG. REC. 30887, 30888, 94th Cong. 2d Sess., Sept. 16, 1976 [H.R. 8532].

§ 12.9 A motion to commit (with or without instructions) a pending resolution which has not been reported from committee is in order after the previous question has been ordered thereon, under Rule XVII clause 1. 124 CONG. REC. 20504, 95th Cong. 2d Sess., July 12, 1978 [S. Con. Res. 95].

§ 13. Who May Offer Motion

§ 13.1 In recognizing a Member to move to recommit, the Speaker first ascertains whether the Member qualifies as being opposed to the bill. 107 CONG. REC. 2965, 2989, 87th Cong. 1st Sess., Mar. 1, 1961.

§ 13.2 In recognizing for the motion to recommit, the Speaker will not investigate the attitude of a Member other than to inquire if he is opposed to the bill. 110 CONG. REC. 5147, 88th Cong. 2d Sess., Mar. 12, 1964 [H.R. 8986]. And a Member who is opposed to the bill "in its present form" qualifies to offer the motion. 109 CONG. REC. 14296, 88th Cong. 1st Sess., Aug. 6, 1963 [H.R. 4955]; 115 CONG. REC. 28487, 91st Cong. 1st Sess., Oct. 3, 1969 [H.R. 14000]. The Chair makes no distinction between Members who are "unqualifiedly opposed" and those who phrase their opposition "to the bill in its present form." 115 CONG. REC. 28487, 91st Cong. 1st Sess., Oct. 3, 1969 [H.R. 14000]; 116 CONG. REC. 12063, 12092, 91st Cong. 2d Sess., Apr. 16, 1970 [H.R. 16311].

§ 13.3 *Note:* A Member making a motion to recommit must qualify as being opposed to the measure under consideration, and is expected to indicate his opposition by voting against

passage if the motion to recommit is rejected; but where the proponent of a motion to recommit with instructions is successful in his endeavor, and the instructions accompanying the motion are agreed to by the House, he remains under no obligation to vote against the bill on passage. Compare 115 CONG. REC. 36537, 91st Cong. 1st Sess., Dec. 2, 1969, where the Member who offered the motion to recommit voted in favor of that motion and then, after its adoption, voted in favor of the resolution as amended by the motion to recommit.

§ 13.4 If the previous question is voted down on a motion to recommit, the person offering an amendment to the motion would not necessarily have to qualify as being opposed to the bill. 114 CONG. REC. 18940, 90th Cong. 2d Sess., June 26, 1968 [H.R. 18037].

§ 13.5 A Member who qualified as being opposed to a bill and offered the motion to recommit (which was defeated) withdrew his "no" vote on passage and, after announcing a live pair, voted "present." 115 CONG. REC. 37996, 91st Cong. 1st Sess., Dec. 9, 1969 [H.R. 15149].

§ 13.6 A minority member of the committee reporting a bill, having qualified as being opposed to the bill, offered a simple motion to recommit, voted against the motion to recommit and was paired against the passage of the measure. 117 CONG. REC. 32112, 92d Cong. 1st Sess., Sept. 16, 1971 [H.R. 1746].

§ 13.7 In recognizing Members to move to recommit, the Speaker gives preference to minority members of the committee reporting the bill who are opposed to the bill. 105 CONG. REC. 11372, 86th Cong. 1st Sess., June 19, 1959. And he gives preference to the most senior minority member of the committee who qualifies. 115 CONG. REC. 28487, 91st Cong. 1st Sess., Oct 3, 1969 [H.R. 14000]; 116 CONG. REC. 17327, 91st Cong. 2d Sess., May 28, 1970 [H.R. 17755]. *Note:* These principles are followed even where the bill under consideration was not reported from committee. The Chair would still give preference to the senior minority member on the committee of jurisdiction. See 111 CONG. REC. 25439, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644]. And this principle has been applied with respect to recognition for a motion to commit a Senate concurrent resolution not reported from a House committee. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 28, 1979 [S. Con. Res. 53].

§ 13.8 In response to a parliamentary inquiry the Speaker stated that recognition to offer a motion to recommit is the prerogative of a Member opposed to the bill, that the Speaker will first look to minority members of the committee reporting the bill in their order of seniority on the committee, second to other members of the minority, and finally to majority members opposed to the bill. 121 CONG. REC. 22014, 22015, 94th Cong. 1st Sess., July 10, 1975 [H.R. 8365]. See also 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 24, 1979 [H.R. 3303].

§ 13.9 A minority member of a committee reporting a bill is entitled to recognition to offer a motion to recommit, if opposed to the bill, over a minority member not on the committee, although the Speaker may have failed to notice the committee member seeking recognition at the time the noncommittee member sought to offer a motion but before it was reported by the Clerk. 121 CONG. REC. 22620, 94th Cong. 1st Sess., July 14, 1975 [H.R. 8561].

§ 13.10 Recognition for the motion to recommit is ordinarily accorded to a minority member of the committee which reported the bill. However, a minority member who is opposed to a bill, although not on the committee reporting it, is entitled to recognition to offer a motion to recommit over a majority member who is also a member of the committee. 121

CONG. REC. 22014, 22015, 94th Cong. 1st Sess., July 10, 1975 [H.R. 8365]. And where the House is considering a bill containing separate titles which are the work product of two different committees, the Speaker may recognize a minority member of the committee which considered a portion of the bill although it did not formally report the measure to the House. 116 CONG. REC. 38997, 91st Cong. 2d Sess., Nov. 25, 1970 [H.R. 19504, the Federal-aid Highway Act].

§ 13.11 Where no member from the minority side seeks recognition to offer a motion to recommit, the Speaker may recognize a member from the majority side who qualifies as being opposed to the bill. 113 CONG. REC. 15587, 90th Cong. 1st Sess., June 13, 1967 [H.R. 10738]; 114 CONG. REC. 10126-30, 90th Cong. 2d Sess., Apr. 22, 1968 [H.R. 16409]. In one instance, a motion to recommit with instructions was offered by the chairman of the committee reporting the bill who had managed the bill during its consideration on the floor and who was opposed. 114 CONG. REC. 10126-30, 90th Cong. 2d Sess., Apr. 22, 1968 [H.R. 16409].

§ 13.12 Until a Member desiring to offer a motion to recommit has had his motion read by the Clerk, he is not entitled to the floor so as to prevent another Member from being recognized to offer another recommittal motion. While a Member desiring to offer a motion to recommit must seek recognition when the Speaker states the question to be on passage of the bill, it is not too late for a senior member of the committee to seek recognition where another minority member has qualified as opposed to the bill but where his motion has not been read by the Clerk. The fact that the Chair has inquired of a Member seeking recognition to offer a motion to recommit whether he qualified as being opposed to the bill does not confer recognition on that Member, where the Chair has not directed the Clerk to report the motion. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 24, 1979 [H.R. 3303].

§ 14. Motions to Recommit With Instructions

§ 14.1 The House may, through use of the motion to recommit, instruct one of its committees to take certain actions. 112 CONG. REC. 20119, 89th Cong. 2d Sess., Aug. 22, 1966 [H.R. 16340].

§ 14.2 The motion to recommit with instructions does not take precedence over a simple motion to recommit. 116 CONG. REC. 38997, 91st Cong. 2d Sess., Nov. 25, 1970, where a minority member of the Committee on Ways and Means, which had considered title III of a bill reported by the Committee on Public Works, was recognized to offer a simple motion to recommit to the Committee on Public Works, although a minority member of the Committee on Public Works, also opposed to the bill, sought to offer a motion to recommit with instructions.

§ 14.3 The Chair does not anticipate the content of a motion to recommit and will not rule in advance as to whether particular instructions which might be offered as part of such a motion would be germane. 115 CONG. REC. 38123, 38130, 91st Cong. 1st Sess., Dec. 10, 1969.

§ 14.4 Where a motion to recommit with instructions is ruled out on a point of order, another motion to recommit may be offered. 113 CONG. REC. 5155, 90th Cong. 1st Sess., Mar. 2, 1967, where a second motion to recommit was entertained, the first having been held not in order since the amendment included in the instructions accompanying the motion was not germane to the bill. 122 CONG. REC. 28884, 94th Cong. 2d Sess., Sept. 1, 1976 [H.R. 14238].

§ 14.5 A point of order that a motion to recommit with instructions is not germane to the bill comes too late after the proponent of the motion has been recognized for five minutes of debate in the House and has yielded for a parliamentary inquiry. 117 CONG. REC. 17491-95, 92d Cong. 1st Sess., June 2, 1971.

§ 14.6 A motion to recommit with instructions is subject to amendment if the previous question is voted down. 114 CONG. REC. 12262, 90th Cong. 2d Sess., May 8, 1968 [H.R. 17023]; 115 CONG. REC. 18487, 91st Cong. 1st Sess., Oct. 3, 1969 [H.R. 14000].

§ 14.7 *Note:* A motion to recommit with instructions that a committee hold hearings and report back to the House by a date certain may be ruled out of order, as the motion constitutes an attempt to change the rules of the House.

§ 14.8 A resolution was recommitted with instructions that the committee hold hearings "promptly." 116 CONG. REC. 28036, 91st Cong. 2d Sess., Aug. 10, 1970.

§ 14.9 A motion to recommit a bill to committee with instructions to hold public hearings on the proposal and to solicit the views of the Attorney General was held in order. 112 CONG. REC. 20119, 89th Cong. 2d Sess., Aug. 22, 1966 [H.R. 16340, relating to picketing]. See also 114 CONG. REC. 6270, 6275, 90th Cong. 2d Sess., Mar. 13, 1968, for a motion to recommit a House resolution to the Committee on House Administration with instructions to hold open hearings on justification of funds for the Committee on Un-American Activities.

§ 14.10 The House rejected a motion to recommit a resolution of the Committee on Un-American Activities to a select committee with instructions to examine the sufficiency of the contempt citation and report back to the House. 112 CONG. REC. 27484, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Res. 1060].

§ 14.11 A motion to recommit a bill to the Committee on Public Works with instructions not to report back to the House until final plans for the construction of a building were available was rejected by the House. 116 CONG. REC. 6191, 91st Cong. 2d Sess., Mar. 5, 1970 [S. 2910].

§ 14.12 It is the responsibility of the Speaker, and not the Chairman of the Committee of the Whole, to rule upon the propriety of a motion to recommit with instructions. 120 CONG. REC. 27499, 27500, 93d Cong. 2d Sess., Aug. 8, 1974.

§ 14.13 While the special rule for the consideration of the Tax Reform Act of 1975 prohibited, with certain exceptions, amendments to that bill either in Committee of the Whole or the House, a motion to recommit to the Ways and Means Committee with instructions not to report until an amendment had been included providing that revenues raised by the bill not be used to finance government expenditures above a certain amount was offered, and no point of order was made against the motion. 121 CONG. REC. 38698, 38699, 94th Cong. 1st Sess., Dec. 4, 1975.

§ 14.14 If any portion of a motion to recommit a general appropriation bill with instructions constitutes legislation, the entire motion is out of order. 122 CONG. REC. 20884, 94th Cong. 2d Sess., Sept. 1, 1976 [H.R. 14238]. Generally, see Ch. 26, infra.

§ 14.15 The House considered a motion to recommit a bill to an ad hoc committee (previously established by resolution of the House), rather than to the committee which had reported the bill, with instructions to consider said bill in relation to the President's energy message and to promptly hold hearings thereon. 123 CONG. REC. 12886, 95th Cong. 1st Sess., Apr. 29, 1977 [H.R. 2].

§ 15. — Instructions Pertaining to Amendments

§ 15.1 The House may recommit a bill to committee with instructions to report it back forthwith with an amendment. 108 CONG. REC. 21897, 87th Cong. 2d Sess., Oct. 3, 1962; 109 CONG. REC. 24757-59, 88th Cong. 1st Sess., Dec. 16, 1963; 112 CONG. REC. 11905, 89th Cong. 2d Sess., June 1, 1966.

§ 15.2 Instructions to report "forthwith" accompanying a motion to recommit must be complied with immediately. 107 CONG. REC. 19208, 87th Cong. 1st Sess., Sept. 13, 1961.

§ 15.3 A motion to recommit may not include instructions to modify any part of an amendment previously agreed to by the House. Thus, where the House has adopted an amendment in the nature of a substitute, such amendment cannot be further amended by way of a motion to recommit absent a special rule permitting one motion to recommit "with or without instructions." 106 CONG. REC. 9416, 86th Cong. 2d Sess., May 4, 1960. Conversely, where a bill is being considered under a special rule permitting a motion to recommit "with or without instructions," a motion to recommit may include an amendment which changes an amendment already adopted by the House (122 CONG. REC. 13537, 94th Cong. 2d Sess., May 12, 1976 [H.R. 12851]), even where the Committee of the Whole has reported and the House has adopted an amendment in the nature of a substitute. 111 CONG. REC. 25438, 89th Cong. 1st Sess., Sept. 29, 1965. Compare 111 CONG. REC. 2914, 2917, 89th Cong. 1st Sess., Feb. 17, 1965, where the House had agreed to an amendment extending the life of the Arms Control Agency for three years and providing a $40 million authorization; a motion to recommit the bill with instructions to report it back with an amendment providing a two-year extension and a $25 million authorization was ruled out on a point of order.

§ 15.4 The House recommitted a joint resolution to the Committee on Education and Labor with instructions that the preamble and body be reported back forthwith with an amendment in the nature of a substitute. 118 CONG. REC. 3451-53, 92d Cong. 2d Sess., Feb. 9, 1972 [H.J. Res. 1025, providing a procedure for settlement of a labor dispute among certain shippers and employees].

§ 15.5 The House agreed to a motion to recommit an appropriation bill with instructions to the Committee on Appropriations to report back forthwith with an amendment reducing the total appropriation figure. 113 CONG. REC. 19273-75, 90th Cong. 1st Sess., July 18, 1967 [H.R. 11456].

§ 15.6 The House defeated an amendment reported from the Committee of the Whole striking out a section, rejected the previous question on a straight motion to recommit, and then amended the motion to include instructions to reinsert in the bill amendments which had tentatively been adopted in Committee of the Whole but then deleted by the amendment striking out that section as so amended. 120 CONG. REC. 2079-81, 93d Cong. 2d Sess., Feb. 5, 1974 [H.R. 11221, amending the Federal Deposit Insurance Act]. In 1976, the House adopted a motion to recommit a bill with instructions, supported by the floor manager of the bill, in order to restore a perfecting committee amendment tentatively adopted in Committee of the Whole but then not reported to the House because of the adoption in Committee of an amendment—subsequently rejected by the House—striking out the section comprehending the committee perfecting amendment. 122 CONG. REC. 25427, 94th Cong. 2d Sess., Aug. 4, 1976 [H.R. 8401, Nuclear Fuel Assurance Act].

§ 15.7 The Chairman of the Committee of the Whole declined to determine, in response to parliamentary inquiries, whether a motion in the House to recommit with instructions could

include an amendment not in order in Committee under a "modified closed rule." 120 CONG. REC. 27499, 27500, 93d Cong. 2d Sess., Aug. 8, 1974 [H.R. 16090]. *Note:* As a general rule it is not in order to do indirectly by a motion to recommit with instructions that which may not be done by way of amendment, but where the closed rule only restricts the amendment process in the Committee of the Whole, and does not address amendments which might be offered "in the House or the Committee of the Whole," the motion in the House to recommit with instructions is not limited by the prohibitions applicable in the Committee of the Whole.

§ 15.8 A motion to recommit a bill was offered with instructions to the Committee on House Administration to report back forthwith with a specified amendment in the nature of a substitute, pursuant to a special rule permitting only that designated text to be offered as an amendment in the nature of a substitute. 122 CONG. REC. 9099, 94th Cong. 2d Sess., Apr. 1, 1976 [H.R. 12406, Federal Election Campaign Amendments of 1976]. *Note:* The amendment in the nature of a substitute could be offered as a motion to recommit only in the precise form permitted by the special rule.

§ 15.9 A resolution waived certain points of order against consideration of a bill and permitted one motion to recommit "which may include instructions if the House has not previously agreed to an amendment in the nature of a substitute. . . ." 123 CONG. REC. 10239, 95th Cong. 1st Sess., Apr. 4, 1977 [H. Res. 469]. *Note:* The unique language describing the permissible scope of the motion to recommit on this bill was added by amendment in the Rules Committee, and was intended to allow a motion to recommit with instructions to amend a portion of the bill which had already been amended, except where an amendment in the nature of a substitute had been adopted. The rule thus permitted instructions to eliminate or to amend certain amendments already agreed to.

§ 15.10 The House adopted a motion to recommit a bill providing new entitlement programs under the Social Security Act, with instructions that the committee report forthwith with an amendment making any payments under the program subject to advance appropriations. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 2, 1979 [H.R. 3434].

§ 15.11 Where a Senate bill is read in the House a third time and then recommitted to committee with instructions to report back forthwith with an amendment, the Senate bill is again read a third time following adoption of the amendment and prior to final passage. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 12, 1979 [S. 423].

§ 16. Debate on Motion

§ 16.1 Under Rule XVI clause 4, a Member offering a motion to recommit with instructions (after the previous question has been ordered on a bill or joint resolution to final passage) and a Member opposing the motion to recommit, are each recognized for five minutes of debate. 117 CONG. REC. 17491-95, 92d Cong. 1st Sess., June 2, 1971; 117 CONG. REC. 34345-47, 92d Cong. 1st Sess., Sept. 30, 1971 (where a Member who offered a motion to recommit a bill with instructions was recognized by the Speaker for five minutes to debate the motion, and the chairman of the committee which had reported the bill was then recognized for five minutes in opposition to the motion); 118 CONG. REC. 3451-53, 92d Cong. 2d Sess., Feb. 9, 1972 [H.J. Res. 1025]; 121 CONG. REC. 34448, 94th Cong. 1st Sess., Oct. 30, 1975 [H.R. 8603]. *Note:* Debate is permitted on any motion to recommit with instructions, and not merely with instructions to report the bill back forthwith with an amendment. For an instance where the Speaker took

the floor to be recognized for five minutes in opposition to a motion to recommit with instructions, see 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979.

§ 16.2 A motion to recommit a simple resolution with instructions, the pervious question having been ordered, is not debatable, rule XVI clause 4 only permitting a 10-minute debate on a motion to recommit a bill or joint resolution with instructions. 124 CONG. REC. 37017, 95th Cong. 2d Sess., Oct. 13, 1978 [H. Res. 1416]; 119 CONG. REC. 37141, 37151, 93d Cong. 1st Sess., Nov. 15, 1973 [H. Res. 702]. The 10-minute debate permitted by the rule is likewise inapplicable to a motion to recommit a concurrent resolution with instructions. 121 CONG. REC. 13366, 13367, 94th Cong. 1st Sess., May 7, 1975 [S. Con. Res. 23]. *Note:* For the same reason, debate is not in order on a motion to recommit a conference report with instructions.

§ 16.3 A Member offering a motion to recommit a bill with instructions may, at the conclusion of the 10 minutes of debate thereon, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion to recommit. 119 CONG. REC. 24966, 24967, 93d Cong. 1st Sess., July 19, 1973. [The Member offering a motion to recommit with instructions controls the floor at the conclusion of five minutes of debate in opposition to the motion and may yield for an amendment to his motion unless another Member moves the previous question on the motion to recommit.]

§ 16.4 A Member recognized for five minutes in opposition to a motion to recommit with instructions controls the floor for debate only and may not yield to another Member to offer an amendment to the motion to recommit. 119 CONG. REC. 24966, 24967, 93d Cong. 1st Sess., July 19, 1973].

§ 16.5 A simple motion to recommit (or a motion to recommit without instructions) is not debatable (Rule XVI clause 4) after the previous question has been ordered to final passage. 123 CONG. REC. 14449, 95th Cong. 1st Sess., Apr. 20, 1977 [H.R. 5840].

§ 16.6 The Member recognized to control debate in opposition to a motion to recommit with instructions is entitled to close debate thereon. 124 CONG. REC. 25500, 95th Cong. 2d Sess., Aug. 10, 1978 [H.R. 13511].

§ 16.7 In the 95th Congress, the House considered a motion to recommit a bill with instructions pursuant to a special order providing that the previous question be considered as ordered thereon, but providing for up to one hour of debate on the motion in the House, equally divided and controlled by the proponent of the motion and the Chairman of the Committee on Ways and Means. 124 CONG. REC. 25500, 95th Cong. 2d Sess., Aug. 10, 1978 [H.R. 13511].

E. THE MOTION TO RECONSIDER

§ 17. In General

§ 17.1 The motion to reconsider is not in order in the Committee of the Whole. 109 CONG. REC. 23322, 88th Cong. 1st Sess., Dec. 4, 1963 [H.R. 6196]; 113 CONG. REC. 13824, 90th Cong. 1st Sess., May 24, 1967 [H.R. 7819]; 122 CONG. REC. 28958, 94th Cong. 2d Sess., Sept. 2, 1976 [H.R. 13636].

§ 17.2 A motion to reconsider its action in passing a House bill having been entered in the Senate, the Senate, by motion, requested the House to return the papers. 113 CONG. REC. 11868, 11918, 90th Cong. 1st Sess., May 8, 1967.

§ 17.3 A motion to reconsider having been made, a motion to table the motion to reconsider may be offered from the floor and agreed

to. 108 CONG. REC. 13985, 13996, 87th Cong. 2d Sess., July 18, 1962 [S. 167]. However, a motion to reconsider may not be laid on the table after the Chair has put the question and asked for the "ayes" on that motion. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.J. Res. 399].

§ 17.4 Where objection was raised to a unanimous-consent request that a motion to reconsider be tabled, the Chair announced that the objection was heard and then, since no Member sought recognition to make a motion relating to the pending bill, recognized another Member to call up the next item of scheduled business. 115 CONG. REC. 29315, 91st Cong. 1st Sess., Oct. 9, 1969.

§ 17.5 A motion to reconsider remains in order on the next legislative day after the question to be reconsidered was voted on. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.J. Res. 399]. In this instance, the House having voted to reconsider the vote whereby it has rejected a joint resolution on the previous day but not having separately reconsidered the ordering of a recorded vote thereon, the Speaker nevertheless put the question de novo to a voice vote on final passage and entertained a demand for a recorded vote.

§ 17.6 While a motion to reconsider may be entered at any time on the same day or next legislative day as the vote proposed to be reconsidered, it may not be considered while another motion is pending before the House. It follows that, during consideration of numbered Senate amendments reported from conference in disagreement, a motion to reconsider a vote on a previous amendment is not in order while a motion to dispose of a subsequent amendment is pending, but may be considered while a subsequent amendment has been read or designated by the Clerk but where no motion for its disposition is pending. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980 [H.R. 7452].

§ 17.7 When a proposition is under debate in the House, a motion to reconsider a secondary motion (to postpone) which has been previously offered and rejected is highly privileged, and may even be entertained by the Chair after the manager of the pending proposition has yielded time to another Member and before that Member has begun his remarks. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 660].

§ 18. Who May Offer

§ 18.1 Under clause 1 Rule XVIII, a Member must have voted on the prevailing side of a question in order to qualify to move to reconsider that vote. 117 CONG. REC. 45875, 92d Cong. 1st Sess., Dec. 9, 1971 [H. Res. 729]. 124 CONG. REC. 10990, 95th Cong. 2d Sess., Apr. 20, 1978 [H.R. 8494]. 125 CONG REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.J. Res. 399].

§ 19. Application of Motion

§ 19.1 A motion to reconsider may be applied to a vote on a motion to lay on the table. 114 CONG. REC. 30214-16, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 19.2 After a motion to reconsider has been laid on the table a second motion to reconsider is not in order. 113 CONG. REC. 16487, 90th Cong. 1st Sess., June 20, 1967.

§ 19.3 *Note:* It is not in order to reconsider a vote by which the House refuses to suspend the rules.

§ 19.4 The motion to reconsider is applicable to an affirmative vote on a motion that the House resolve itself into the Committee of the Whole. 124 CONG. REC. 10990, 95th Cong. 2d Sess., Apr. 20, 1978; 124 CONG. REC. p. ....., 95th Cong. 2d Sess., Aug. 11, 1978. *Note:* A

negative vote on the motion to resolve into Committee may not be reconsidered.

§ 19.5 The House agreed by roll call vote to reconsider the vote whereby it had, on a roll call vote, rejected a joint resolution making continuing appropriations on the previous legislative day, rejected a motion to reconsider the vote whereby the joint resolution was engrossed and read a third time, and again rejected the joint resolution on a roll call vote. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.J. Res. 399]. *Note:* Had the motion to reconsider engrossment and third reading been adopted, it would have been in order to reconsider the vote whereby the previous question had been ordered on the joint resolution; the resolution would then have been open to amendment again, although any amendment already adopted would not have been subject to amendment unless it also was reconsidered by motion.

§ 20. Debate on Motion

§ 20.1 The motion to reconsider is debatable if the motion proposed to be reconsidered was debatable. 111 CONG. REC. 23608, 89th Cong. 1st Sess., Sept. 13, 1965]. Conversely, a motion to reconsider is not debatable if the question to be reconsidered was not debatable (as for example when the previous question had been ordered thereon). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.J. Res. 399].

§ 20.2 Unless tabled, the motion to reconsider the vote by which a resolution providing for the order of business was agreed to is debatable where the previous question was not ordered on the resolution. 111 CONG. REC. 23608, 89th Cong. 1st Sess., Sept. 13, 1965, following adoption of H. Res. 506].

§ 20.3 When the motion to reconsider is debatable, the Member making the motion has control of the one-hour allowed for debate. 111 CONG. REC. 23608, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 20.4 The House having agreed to reconsider the vote whereby a measure was rejected, a motion to reconsider the vote whereby it was engrossed and read a third time is in order, but is not debatable if the previous question had been ordered on the bill or joint resolution. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.J. Res. 399]. And where the motion to reconsider is agreed to, the proposition to be reconsidered, the previous question having been ordered thereon, is again not debatable. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 660].

F. THE MOTION TO POSTPONE

§ 21. In General

§ 21.1 *Note:* Under Rule XVI clause 4, the motion to postpone indefinitely is normally debatable, but such debate may be precluded by statute with respect to a particular class of legislation. See, for example, section 152(d) of the Trade Act of 1974, which provides that the motion to postpone the consideration of a disapproval resolution is not debatable.

§ 21.2 The motion to postpone to a day certain is in order in the House as in Committee of the Whole, and is specifically made in order on a joint resolution being considered under the Alaska Natural Gas Transportation Act, section 8(d)(6)(A). 123 CONG. REC. 36351, 95th Cong. 1st Sess., Nov. 1, 1977 [H.J. Res. 621].

§ 21.3 Debate on a motion to postpone must be confined to the issue of the desirability of postponement, and may not go to the merits of the main proposition. 126 CONG. REC. p. .....,

96th Cong. 2d Sess., May 29, 1980 [H. Res. 660]

§ 21.4 A motion to postpone further consideration of a privileged resolution may be offered before the manager of the resolution has been recognized for debate, and is debatable for one hour controlled by the Member offering the motion. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 660]; 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 2, 1980 [H. Res. 794].

§ 21.5 The motion to postpone to a day certain is subject to the motion to lay on the table, which does not carry the bill to the table but only the motion to postpone. 126 CONG. REC. p., ..., 96th Cong. 2d Sess., May 30, 1980 [H.J. Res. 554].

§ 21.6 During consideration of a privileged resolution reported from the Committee on Standards of Official Conduct (to censure a Member), the House rejected a motion to postpone further consideration to a day certain by a roll call vote, then adopted a motion to reconsider the vote on that motion (new evidence allegedly not before the committee having been introduced in debate), and then adopted the motion to postpone by a division vote. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 660].

Chapter 24

Bills and Resolutions

A. Definitions and Distinctions

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§ 18. House-Senate Messages

D. CONGRESSIONAL DISAPPROVAL (OR "VETO") POWER

§ 19. In General; Procedure

A. Definitions and Distinctions

§ 1. In General; Kinds of Bills and Resolutions

§ 1.1 *Note:* Bills are headed "H.R." and are used for purposes of general legislation. They may be either public or private. A private bill is a bill for the benefit of one or several specified persons or entities, and is to be distinguished from a public bill, which relates to public matters and deals with individuals by classes only.

§ 1.2 *Note:* Joint resolutions are headed "H.J. Res." A joint resolution is a bill so far as the processes of the Congress are concerned. With the exception of joint resolutions proposing amendments to the Constitution, all these resolutions are sent to the President for approval and have the full force of law. They are sometimes used for what may be called incidental legislation, such as extending the national thanks to individuals, welcoming dignitaries, notice to a foreign government of the abrogation of a treaty, declarations of military policy, and correction of errors in an existing law. In the modern practice, joint resolutions have been used for major legislation of a general nature only where it is desired to use a preamble.

§ 1.3 *Note:* Concurrent resolutions are headed "H. Con. Res." and are used as a means by which the two Houses may concurrently express certain facts, or declare certain principles, opinions, or purposes. Joint committees may be authorized by resolutions of this form. A concurrent resolution is binding on neither House until agreed to by both. It is not sent to the President for approval unless it contains legislation, a use not within the scope of the modern form of this type of resolution. Concurrent resolutions are used in the adoption of joint rules, setting up joint committees, and expressing the sense of Congress on propositions.

§ 1.4 *Note:* Simple resolutions are headed "H. Res." and are used to express a fact, or to declare the principles, opinions, or purposes of the House. Rules are adopted by simple resolutions; special committees are authorized; expenditures from the contingent fund are made in this manner; resolutions of inquiry or disapproval (including resolutions pursuant to various congressional disapproval procedures prescribed by statute) are generally made by simple resolution; and such resolutions are used to express the sense of the House on propositions. They are not used for purposes of general legislation.

§ 2. Particular Uses of Joint Resolutions

§ 2.1 A joint resolution was used to express congressional support for the President's first use of armed forces against North Vietnam. 109 Cong. Rec. 18538, 88th Cong. 1st Sess., Aug. 7, 1964. *Note:* It was reported that the President ordered retaliation against certain North Vietnamese bases from which torpedo boats operated. In an address to the Nation on Monday, August 3, the President stated that he had requested the Congress to support his action by a resolution. On August 5, the President transmitted to the Congress a message on the developing situation in Southeast Asia and a draft of a resolution. The Committee on Foreign Affairs, to which the message was referred (H. Doc. No. 333), asked for and was granted permission to sit during the session of the House on August 6. The committee reported the resolution (H.J. Res. 1145) on August 6, and it was considered and passed in both Houses, August 7. For repeal of the Tonkin Gulf Resolution, see Pub. L. No. 91-672, § 12, 84 Stat. 2055.

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§ 2.2 A joint resolution is used to postpone dates established by law for the transmittal of the President's Economic Report and the filing of the report of the Joint Economic Committee. 113 CONG. REC. 1033, 90th Cong. 1st Sess., Jan. 19, 1967; 117 CONG. REC. 46858, 92d Cong. 1st Sess., Dec. 14, 1971; 119 CONG. REC. 31, 93d Cong. 1st Sess., Jan. 3, 1973.

§ 2.3 In response to a parliamentary inquiry on the vote required to pass a joint resolution extending the period for state ratification of a constitutional amendment, the Speaker stated that the House had determined that a majority vote was required, having done so by laying on the table a (privileged) resolution asserting that a two-thirds vote was required. 124 CONG. REC. 26215, 95th Cong. 2d Sess., Aug. 15, 1978 [H.J. Res. 638, the Equal Rights Amendment Extension]. *Note:* The passage of the joint resolution by a majority vote in both Houses resulted in an unprecedented congressional document: a joint resolution passed by a regular majority, not requiring the signature of the President but sent to him as a symbolic gesture, and not assigned a public law number.

§ 2.4 In the 95th Congress, a joint resolution was used to restore the full rights of citizenship to Jefferson Davis, the President of the Confederate States of America, who had been denied his rights as a U.S. citizen after the Civil War. 124 CONG. REC. 31619, 95th Cong. 2d Sess., Sept. 26, 1978 [S.J. Res. 16]. *Note:* Under the Constitution, a vote of two-thirds of the Members present and voting is required to pass a bill restoring the full rights of citizenship to a person who, having previously taken an oath to support the Constitution, has engaged in insurrection or rebellion. U.S. Const. amend. XIV, section 3.

§ 2.5 In the 96th Congress, the House rejected a joint resolution proposing a constitutional amendment, two-thirds of those present and voting not having voted in the affirmative, which had been brought up by way of a motion to discharge. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 24, 1979 [H.J. Res. 74].

B. BILL PASSAGE PROCEDURE

§ 3. In General; Reading

§ 3.1 The reading of a bill or joint resolution is an essential step leading to passage. It is read the first time by title, the second time in full, and the third time by title. In 1965, the House eliminated the provision which permitted a Member to demand a third reading in full. See clause 1 Rule XXI. This change made it impossible for one Member to delay final action on a bill by demanding the reading in full of the engrossed copy. 111 CONG. REC. 21-25, 89th Cong. 1st Sess., Jan. 4, 1965.

§ 3.2 *Note:* The rule (Rule XXI clause 1) requiring a reading "in full" refers only to "bills and joint resolutions," but a reading in full should extend to all concurrent and simple resolutions either pending or immediately upon their consideration in the House. Compare 124 CONG. REC. 20494, 95th Cong. 2d Sess., July 12, 1978 [S. Con. Res. 95], indicating that the reading of a concurrent resolution called up for consideration in the House may be dispensed with by unanimous consent.

§ 4. Reading in Committee of the Whole

§ 4.1 When a bill is taken up in the Committee of the Whole, its reading in full may be demanded before general debate begins, and may be dispensed with by unanimous consent but not by motion. 123 CONG. REC. 12635, 95th Cong. 1st Sess., Apr. 28, 1977 [H.R. 2].

§ 4.2 The first reading of a bill in Committee of the Whole may be dispensed with by unani-

mous consent (124 CONG. REC. 14147, 95th Cong. 2d Sess., May 17, 1978 [H.R. 39]) or pursuant to a special rule from the Committee on Rules. 124 CONG. REC. 32662, 95th Cong. 2d Sess., Sept. 29, 1978 [H. Res. 1368]. In the 96th Congress, the Committee on Rules began the practice of including in its special orders a provision waiving the first reading in Committee of the Whole.

§ 5. Engrossment

§ 5.1 *Note:* Engrossment is the process by which a bill is printed on special paper by direction of the enrolling clerk under supervision of the Clerk of the House. House-passed measures or amendments to Senate measures are engrossed on a distinctive blue paper. The Clerk attests to the engrossment which is messaged to the Senate and is the official copy of the measure as passed or amended by the House. Senate bills and amendments are engrossed on white paper and bear the signature of the Secretary of the Senate. A limited number of the blue and white engrossments are printed for official use of the House and Senate and are the prints used by conferees in working out their agreements.

§ 5.2 The yeas and nays may be ordered on the question of the engrossment and third reading of a bill. 105 CONG. REC. 17404, 86th Cong. 1st Sess., Aug. 31, 1959.

§ 5.3 By unanimous consent, the House considered and agreed to a Senate concurrent resolution authorizing the Secretary of the Senate and the Clerk of the House to prepare and sign official duplicate engrossments of the conference papers of a bill in conference. 118 CONG. REC. 8196, 92d Cong. 2d Sess., Mar. 14, 1972 [S. Con. Res. 68]. *Note:* The official papers—Senate engrossed bill and House engrossed amendment—had been sent by the Senate Legislative Counsel to the Government Printing Office for the printing of the conference report. The Government Printing Office inadvertently defaced the official papers.

§ 5.4 It is the House, and not the Committee of the Whole, which controls the engrossment of a House-passed bill by the Clerk. Thus, a unanimous-consent request that the Clerk make certain corrections in the engrossment of a bill is properly made in the House following the passage of the bill and is not in order in Committee of the Whole. 117 CONG. REC. 18049, 92d Cong. 1st Sess., June 4, 1971 [H.R. 8825].

§ 5.5 It is not in order in Committee of the Whole to request that certain technical corrections be made in the engrossment of the bill under consideration. 116 CONG. REC. 22115-17, 91st Cong. 2d Sess., June 30, 1970 [S.J. Res. 88]. Such permission must be obtained in the House. 108 CONG. REC. 21884, 87th Cong. 2d Sess., Oct. 3, 1962 [H.R. 13273]. Thus, a request that the Clerk, in the engrossment of a bill, make corrections in section numbers and cross references in the bill, is properly made in the House following passage of the bill and is not in order in the Committee of the Whole. 115 CONG. REC. 10753, 91st Cong. 1st Sess., Apr. 29, 1969.

§ 6. Enrollment

§ 6.1 *Note:* A bill is enrolled by the House in which it originated. Under the enrollment procedure, the bill is printed at the Government Printing Office on distinctive paper under special supervision of the enrolling clerks of the House and Senate. It is the enrolling bill which is signed by the Speaker and the Vice President and sent to the President. When signed by the President, it is sent to the National Archives where a public (or private) law number is assigned.

§ 7. Corrections in Enrolled Bills

§ 7.1 The Clerk of the House may be authorized and directed by concurrent resolution to make certain corrections in a House bill. 106 CONG. REC. 15248, 86th Cong. 2d Sess., June 30, 1960; 107 CONG. REC. 13069, 87th Cong. 1st Sess., July 20, 1961; 108 CONG. REC. 21574, 87th Cong. 2d Sess., Oct. 1, 1962; 109 CONG. REC. 24823, 88th Cong. 1st Sess., Dec. 17, 1963. Such resolutions are not privileged for consideration and are normally considered by unanimous consent. 117 CONG. REC. 21907, 92d Cong. 1st Sess., June 24, 1971 [H. Con. Res. 346]; 118 CONG. REC. 7573, 92d Cong. 2d Sess., Mar. 8, 1972 [H. Con. Res. 554]; 118 CONG. REC. 34064, 92d Cong. 2d Sess., Oct. 5, 1972 [H. Con. Res. 716]. Such corrections sometimes involve nothing more than spelling errors (108 CONG. REC. 10501, 87th Cong. 2d Sess., June 14, 1962) or a correction in the title of a bill. 116 CONG. REC. 6193, 91st Cong. 2d Sess., Mar. 5, 1970 [H. Con. Res. 527]; 116 CONG. REC. 9334, 91st Cong. 2d Sess., Mar. 25, 1970 [H. Con. Res. 559]. But where a bill is controversial, there is sometimes an objection to the consideration of the concurrent resolution. In such event, the resolution may be considered under suspension of the rules (120 CONG. REC. 26796, 26797, 93d Cong. 2d Sess., Aug. 5, 1974 [H. Con. Res. 583]) or made privileged by a special rule reported from the Committee on Rules. 120 CONG. REC. 39596, 39597, 93d Cong. 2d Sess., Dec. 13, 1974 [H. Con. Res. 692]. In one instance, one concurrent resolution authorized the Clerk to make corrections in the enrollment of four related House bills which had been considered en bloc in the House pursuant to a special rule. 124 CONG. REC. 38589, 95th Cong. 2d Sess., Oct. 14, 1978 [H. Con. Res. 759]. And in another, two concurrent resolutions making technical corrections were agreed to, where more extensive errors were found after the passage of the first resolution. 120 CONG. REC. 34758, 93d Cong. 2d Sess., Oct. 9, 1974; 120 CONG. REC. 35174, 93d Cong. 2d Sess., Oct. 10, 1974 [H. Con. Res. 662, 663].

§ 7.2 The Senate originated a concurrent resolution authorizing and directing the Clerk of the House to reenroll a House bill with a correction. 112 CONG. REC. 26639, 89th Cong. 2d Sess., Oct. 13, 1966. See also 124 CONG. REC. 24876, 95th Cong. 2d Sess., Aug. 8, 1978 [S. Con. Res. 101]. Conversely, the House has originated a concurrent resolution, considered by unanimous consent, directing the Secretary of the Senate to make a correction in the enrollment of a Senate bill. 124 CONG. REC. 38319, 95th Cong. 2d Sess., Oct. 14, 1978 [H. Con. Res. 755].

§ 7.3 A concurrent resolution authorizing the Clerk to make certain corrections in the enrollment of a House bill was considered and agreed to before the House agreed to the Senate amendment to the bill. 114 CONG. REC. 21538, 90th Cong. 2d Sess., July 16, 1968 [H.R. 9089].

§ 7.4 Corrections or changes in enrolled bills which have been delivered to the White House but not signed into law have traditionally been effected by way of concurrent resolutions, considered by unanimous consent, requesting the return of the bill, vacating the signatures of the Speaker and the President of the Senate, and directing reenrollment by the Clerk or Secretary, whichever is appropriate. 122 CONG. REC. 11087, 94th Cong. 2d Sess., Apr. 16, 1976 [H. Con. Res. 618]; 123 CONG. REC. 10794, 95th Cong. 1st Sess., Apr. 6, 1977 [H. Con. Res. 191]; 123 CONG. REC. 18270, 95th Cong. 1st Sess., June 9, 1977 [H. Con. Res. 243]. Compare 123 CONG. REC. 33627, 95th Cong. 1st Sess., Oct. 13, 1977, where a joint resolution [H.J. Res. 89] was used to amend an enrolled bill already delivered to the President but not yet signed into law. For House agreement to a Senate concurrent resolution requesting the President to return to the Senate an enrolled bill, and directing the Sec-

retary of the Senate to reenroll the bill with a correction, see 106 CONG. REC. 12009, 86th Cong. 2d Sess., June 7, 1960; 112 CONG. REC. 27120, 89th Cong. 2d Sess., Oct. 17, 1966 [S. Con. Res. 115]. *Note:* The error in the later case occurred in the engrossment of House amendments when House proofreaders neglected to include an amendment adopted during the House consideration of the measure.

§ 7.5 The two Houses having agreed to a House concurrent resolution requesting the President to return an enrolled House bill, the Speaker laid before the House a message from the President returning the bill [whereupon the Speaker signed the corrected enrollment]. 120 CONG. REC. 13388, 93d Cong. 2d Sess., May 7, 1974 [H.R. 11793].

§ 7.6 The House agreed to a concurrent resolution requesting the President to return an enrolled House bill, authorizing the Clerk to receive the bill if returned when the House was not in session, rescinding the actions of the Speaker and the Acting President pro tempore in signing it, and directing the reenrollment of the bill with certain corrections. 123 CONG. REC. 38948, 95th Cong. 1st Sess., Dec. 15, 1977 [H. Con. Res. 443]. *Note:* Authorization for the Clerk to receive the bill if the House was not in session was specifically included in anticipation that the return might be made after adjournment *sine die,* doubt existing whether the Clerk could open or take any other action on a Presidential message received during adjournment without specific authority from the House. For a similar precedent, see 124 CONG. REC. 3232, 95th Cong. 2d Sess., Sept. 28, 1978 [H. Con. Res. 725].

§ 7.7 By unanimous consent, the Senate agreed that when a message from the House transmitting a concurrent resolution to correct the enrollment of a House bill be received, the concurrent resolution be determined to have been considered and agreed to. 123 CONG. REC. 37335, 95th Cong. 1st Sess., Nov. 4, 1977 [H. Con. Res. 419, to correct the enrollment of H.R. 7345]. *Note:* This request was unusual in that the concurrent resolution had not even been messaged to the Senate when the request was agreed to in the Senate.

§ 7.8 A concurrent resolution (correcting an enrolled bill) which had been prematurely assigned a number but then not considered before adjournment *sine die* was treated in the final *Congressional Record* and Journal as having been introduced, numbered, and referred before the House adjourned (in order to maintain consecutive numbering). 124 CONG. REC. 38787, 95th Cong. 2d Sess., Oct. 14, 1978 [H. Con. Res. 758].

§ 8. — As Affecting Conference Reports

§ 8.1 The House originated and agreed to a concurrent resolution authorizing the Clerk, in the enrollment of a House bill, to make certain changes in the conference version of the bill to reflect the true intention of conferees and the two Houses. 112 CONG. REC. 27152, 89th Cong. 2d Sess., Oct. 17, 1966 [H. Con. Res. 1039]. *Note:* In this instance, printing errors in the conference report were not discovered until after the Senate had acted on the report.

§ 8.2 The House, having adopted a conference report containing an error in that it did not reflect the agreement of the conferees, originated and adopted a concurrent resolution authorizing the Clerk, in the enrollment of the bill, to make certain corrections. 116 CONG. REC. 8550, 91st Cong. 2d Sess., Mar. 23, 1970 [H. Con. Res. 554].

§ 8.3 By unanimous consent, the House considered and agreed to a concurrent resolution authorizing the Secretary of the Senate to make corrections [including insertion of a provision inadvertently omitted from the conference report] in the enrollment of a Senate bill.

119 CONG. REC. 42056, 42057, 93d Cong. 1st Sess., Dec. 17, 1973 [H. Con. Res. 402].

§ 8.4 By unanimous consent, the House considered and agreed to a concurrent resolution authorizing the Clerk, in the enrollment of a House bill, to make extensive technical corrections and to delete a provision contained in the conference report which was outside the scope of the differences committed to conference. 120 CONG. REC. 29216-18, 93d Cong. 2d Sess., Aug. 20, 1974 [H. Con. Res. 609].

§ 9. Correction of Errors in Engrossed Bills

§ 9.1 Where the House has not messaged its legislative action to the Senate, the House may, by unanimous consent, authorize the Clerk to make technical corrections in the engrossment of a House-passed bill. 117 CONG. REC. 41798, 92d Cong. 1st Sess., Nov. 17, 1971 [H.R. 6065]; 117 CONG. REC. 42422, 92d Cong. 1st Sess., Nov. 30, 1971 [H.R. 11060]. And where the House has adopted numerous amendments during its consideration of a bill, the Clerk is frequently authorized, again by unanimous consent, to correct section numbers, cross references, or punctuation to reflect the actions of the House. 113 CONG. REC. 20243, 90th Cong. 1st Sess., July 26, 1967; 115 CONG. REC. 33155, 91st Cong. 1st Sess., Nov. 5, 1969; 116 CONG. REC. 18415, 91st Cong. 2d Sess., June 4, 1970; 119 CONG. REC. 22103, 22104, 93d Cong. 1st Sess., June 28, 1973. On one occasion, where the same language was inadvertently included in two amendments offered and adopted in the Committee of the Whole and would be clearly superfluous appearing twice in the bill, the House authorized the Clerk, in the engrossment of the bill, to omit part of an amendment adopted by the House so that duplication of language would not appear therein. 115 CONG. REC. 33155, 91st Cong. 1st Sess., Nov. 5, 1969. See also 124 CONG. REC. 14696, 95th Cong. 2d Sess., May 19, 1978 [H.R. 39] (unanimous-consent request directing the enrolling clerk to make changes respecting map dates in the engrossment of a bill to conform to a particular amendment adopted thereto).

§ 9.2 The House by concurrent resolution authorized and directed the Clerk, in the enrollment of a House bill, to make a correction in the text of the House engrossment so as to include a public law number not available at the time the bill passed the House. 115 CONG. REC. 40219, 91st Cong. 1st Sess., Dec. 19, 1969 [H. Con. Res. 473].

§ 9.3 Where the House amended the text of a Senate bill but neglected to make a conforming change in the title thereof, the Clerk was authorized and directed, by unanimous consent, to correct the oversight by inserting a title change in the engrossment of the House amendments to the Senate bill. 114 CONG. REC. 13400, 90th Cong. 2d Sess., May 15, 1968.

§ 9.4 Objection was made to a unanimous-consent request directing the Clerk to request the Senate to return to the House a Senate bill with House amendments thereto, authorizing and directing the Clerk to make a correction in the engrossed copy of the House amendments. 108 CONG. REC. 18299, 87th Cong. 2d Sess., Aug. 31, 1962.

§ 9.5 By unanimous consent, the House considered a resolution requesting the Senate to return a bill to the House and authorizing the Clerk to reengross the bill with certain technical changes. 117 CONG. REC. 41798, 92d Cong. 1st Sess., Nov. 17, 1971 [H. Res. 709].

§ 9.6 By unanimous consent, the House considered a concurrrent resolution directing the Clerk to make a correction in the engrossment of a House bill which had already been sent to conference, and authorizing the conferees on the part of the House and Senate to consider

it. 123 CONG. REC. 20140, 95th Cong. 1st Sess., June 21, 1977 [H. Con. Res. 254].

§ 10. Correction of Senate Bills

§ 10.1 An error in the enrollment of a Senate bill is normally corrected pursuant to a concurrent resolution originated by the Senate authorizing and directing the Secretary of the Senate to make the correction. 108 CONG. REC. 18257, 87th Cong. 2d Sess., Aug. 30, 1962 [S. Con. Res. 88]. For House agreement to such a resolution, see 107 CONG. REC. 11534, 87th Cong. 1st Sess., June 28, 1961 [S. Con. Res. 30].

§ 10.2 On occasion, the House has originated a concurrent resolution that authorized and directed the Secretary of the Senate to make certain corrections in the enrollment of a Senate bill. 112 CONG. REC. 20688, 89th Cong. 2d Sess., Aug. 25, 1966 [H. Con. Res. 990]; 114 CONG. REC. 28863, 90th Cong. 2d Sess., Oct. 1, 1968 [H. Con. Res. 838]. See 118 CONG. REC. 30187, 92d Cong. 2d Sess., Sept. 12, 1972 [H. Con. Res. 698], where by unanimous consent, the House agreed to a House concurrent resolution authorizing the Secretary of the Senate to make a designated correction in the enrollment of a Senate bill. *Note:* This procedure is used primarily where there has been an error in a House amendment to a Senate measure.

§ 10.3 A Senate concurrent resolution authorizing the Secretary of the Senate to make technical corrections in the enrollment of a Senate bill is not privileged for immediate consideration in the House; and, a Member may object to a unanimous-consent request for immediate consideration of such a resolution. 119 CONG. REC. 28126, 28127, 93d Cong. 1st Sess., Aug. 3, 1973 [S. Con. Res. 43].

§ 10.4 By unanimous consent, the Clerk was authorized to correct the engrossment of the House amendment to a Senate bill passed on the preceding day (but not messaged to the Senate) to reflect the tentative adoption in Committee of the Whole of an amendment that was not reported to the House because it was subsequently deleted (inadvertently) by the adoption of another amendment. 121 CONG. REC. 13363, 94th Cong. 1st Sess., May 7, 1975 [S. 1236].

§ 11. Signing and Signatures

§ 11.1 *Note:* An enrolled bill, having been approved as to form by the Committee on House Administration, is reported to the House and Senate, where it is signed by Speaker and Vice President, respectively.

§ 11.2 *Note:* Where the Record and Journal, through oversight, fail to indicate that the Speaker has signed a particular enrolled bill, the Speaker announces to the House the date on which he has signed the bill and asks that the permanent Record and Journal be corrected accordingly.

§ 11.3 The House has agreed to a Senate concurrent resolution vacating the action of the Speaker in signing an enrolled Senate bill, and directing the Secretary of the Senate to reenroll the bill with a correction. 107 CONG. REC. 20239, 87th Cong. 1st Sess., Sept. 19, 1961 [S. Con. Res. 51]; 117 CONG. REC. 38035, 92d Cong. 1st Sess., Oct. 28, 1971 [S. Con. Res. 46, to correct the enrollment of S. 137]. For an example of a House concurrent resolution to the same effect, see 123 CONG. REC. 28017, 95th Cong. 1st Sess., Sept. 7, 1977 [H. Con. Res. 342].

§ 11.4 The House agreed to a Senate concurrent resolution requesting the President to return to the Senate an enrolled bill, vacating the signatures of the two presiding officers, and directing the Secretary of the Senate to reenroll the bill with corrections. 108 CONG.

REC. 10944, 87th Cong. 2d Sess., June 19, 1962 [S. Con. Res. 78].

C. PRESIDENTIAL APPROVAL; THE VETO POWER

§ 12. In General; Constitutional Requirements

§ 12.1 *Note:* Under the Constitution, bills passed by Congress are presented to the President for his approval or disapproval. If he disapproves a bill, he must return it within 10 days to the originating House, where it must then be reconsidered. (U.S. Const. art. I § 7.) The President is not restricted to signing a bill on a day when Congress is in session. He may sign within 10 days (Sunday excepted) after the bill is presented to him, even if that period extends beyond the date of the final adjournment of Congress. In this connection, the Court of Appeals for the District of Columbia held, in a suit instituted by a United States Senator, that a bill allegedly pocket-vetoed did become a law, and an intrasession adjournment of Congress did not prevent the President from returning the bill where appropriate arrangements had been made for the receipt of Presidential messages during the adjournment. (The Secretary of the Senate had been authorized by unanimous consent, on December 22, 1970 [116 CONG. REC. 43221, 91st Cong. 2d Sess.], to receive messages from the President of the United States during the adjournment from December 22 to December 28). See 120 CONG. REC. 28547-52, 93d Cong. 2d Sess., Aug. 15, 1974, for the text of Kennedy v Sampson, 511 F2d 430 (1974), the decision of the Court of Appeals for the District of Columbia.

§ 12.2 The U.S. Court of Appeals for the District of Columbia held, in a suit instituted by a Senator challenging the effectiveness of a pocket veto, that the Senator had the requisite standing to sue in his capacity as an individual U.S. Senator, since he had voted in favor of the bill and was seeking to vindicate the effectiveness of his vote [Kennedy v Sampson, 511 F2d 430 (1974)]. 120 CONG. REC. 28547-52, 93d Cong. 2d Sess., Aug. 15, 1974.

§ 12.3 The 10-day period given the President under the Constitution in which to approve or reject a bill may be considered as beginning at midnight on the day on which the bill is presented to him. 105 CONG. REC. 19553, 86th Cong. 1st Sess., Sept. 14, 1959, wherein a bill sent to the White House on August 31 [but not presented to the President until after his return from Europe on September 7] was returned to the House without the President's approval on September 14.

§ 12.4 A private bill sent to the White House on August 31, 1959 [but not presented to the President until after his return from Europe on September 7] was returned with the President's objections on September 14, 1959. 105 CONG. REC. 19697, 86th Cong. 1st Sess., Sept. 14, 1959.

§ 12.5 Whether a bill has been acted on by the President within the 10 days allowed him by the Constitution is a legal question and not open to determination by the Presiding Officer of the Senate. 105 CONG. REC. 19553, 86th Cong. 1st Sess., Sept. 14, 1959.

§ 12.6 *Note:* Where the President has signed bills after the expiration of the Congress in which they were passed, the notification to the Clerk of their enactment into law appears in the Record on the opening day of the succeeding Congress.

§ 12.7 *Note:* A bill is "pocket vetoed" within the meaning of article I, section 7 of the Constitution only where the President withholds his signature and is prevented from returning the bill to the originating House by an adjournment *sine die* or for more than three days,

absent authority conferred upon its agent to receive Presidential messages. 120 CONG. REC. 36246, 93d Cong. 2d Sess., Nov. 18, 1974 and 120 CONG. REC. 36614-22, 93d Cong. 2d Sess., Nov. 20, 1974 [H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974].

§ 12.8 Notwithstanding assertions in a veto message from the President that he had "pocket vetoed" a bill during an adjournment of the two Houses to a day certain, the House regarded the President's return of the bill without his signature as a veto within the meaning of article I, section 7 of the Constitution which could be overridden by a two-thirds vote of both Houses. 120 CONG. REC. 36246, 93d Cong. 2d Sess., Nov. 18, 1974; 120 CONG. REC. 36614-22, 93d Cong. 2d Sess., Nov. 20, 1974 [H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974].

§ 13. Receipt of Veto Messages

§ 13.1 A veto message from the President may be received by the Clerk after the House has adjourned for the day. 110 CONG. REC. 6095, 88th Cong. 2d Sess., Mar. 24, 1964; 110 CONG. REC. 19178, 88th Cong. 2d Sess., Aug. 12, 1964; 111 CONG. REC. 27801, 89th Cong. 1st Sess., Oct. 21, 1965.

§ 13.2 A veto message from the President has been received by the Clerk after the House has adjourned from a Thursday to the following Monday. 111 CONG. REC. 21244, 89th Cong. 1st Sess., Aug. 23, 1965. [*Note:* The House made no attempt to override the veto on H.R. 8439. The Committee on Armed Services reported instead H.R. 10775, a similar bill which satisfied the objections of the President, and which passed the House on September 7.]

§ 13.3 The Clerk may receive a veto message from the President when the House is not in session and will not be in session again before the expiration of the 10-day period referred to in the Constitution. See 107 CONG. REC. 13152, 87th Cong. 1st Sess., July 24, 1961. [In this instance, H.R. 4206 had been transmitted to the President on July 11, 1961. The 10-day period within which the President could veto the bill would have expired on July 22. Since the House had adjourned over from Thursday, July 20, to Monday, July 24, the Clerk, pursuant to custom formalized in Wright v. United States (302 U.S. 583 [1938]) had authority to receive and did receive the message during a time when the House was not in session.] See also 105 CONG. REC. 17397, 86th Cong. 1st Sess., Aug. 31, 1959, involving H.R. 7509, which had been transmitted to the President. In this case, the 10-day constitutional period for a veto would have expired August 29. Since the House had adjourned over from Thursday, August 27, to Monday, August 31, the Clerk had authority to receive and did receive the message during a time when the House was not in session.

§ 13.4 *Note:* The Clerk has refused to receive a veto message after adjournment where he had not been authorized to do so by the House, and where the House would again be in session before the expiration of the 10-day period. See 105 CONG. REC. 18982, 86th Cong. 1st Sess., Sept. 10, 1959. [In this instance, H.R. 9105 was presented to the White House at approximately 2:35 p.m., September 9, 1959. The House adjourned on that afternoon at 2:51 p.m. Later on the same day, a messenger from the White House attempted to deliver the veto message to the Clerk. However, the Clerk refused to receive the message since (1) he had been given no specific authority to do so by the House and (2) there was no necessity for such action, as the House would again be in session before the expiration of the 10-day period given the President to sign the bill under the Constitution. The message was delivered to the House by a White House clerk

after the House convened at noon on September 10, 1959.]

§ 13.5 The last edition of the *Congressional Record* for the second session, 95th Congress, published after adjournment *sine die,* included memorandums of disapproval from the President on bills which he had pocket-vetoed after the adjournment *sine die.* 124 CONG. REC. p. ....., 95th Cong. 2d Sess., Nov. 15, 1978.

§ 14. Referral of Veto Messages to Committee

§ 14.1 A veto message from the President may be referred to a committee by unanimous consent. 105 CONG. REC. 19697, 86th Cong. 1st Sess., Sept. 14, 1959; 107 CONG. REC. 13151, 87th Cong. 1st Sess., July 24, 1961; 111 CONG. REC. 23623, 89th Cong. 1st Sess., Sept. 13, 1965 [where objection was raised to referral by unanimous consent].

§ 14.2 Veto messages from the President have, by unanimous consent, been referred to the Committee on the Judiciary. 108 CONG. REC. 17702, 87th Cong. 2d Sess., Aug. 27, 1962; 110 CONG. REC. 6095, 88th Cong. 2d Sess., Mar. 24, 1964; 110 CONG. REC. 18334, 88th Cong. 2d Sess., Aug. 6, 1964; 111 CONG. REC. 27801, 89th Cong. 1st Sess., Oct. 21, 1965.

§ 14.3 A veto message from the President was referred to a committee on motion. 112 CONG. REC. 26051, 89th Cong. 2d Sess., Oct. 11, 1966; 113 CONG. REC. 35754, 90th Cong. 1st Sess., Dec. 11, 1967.

§ 14.4 A veto message from the President was by unanimous consent referred to a committee on the Speaker's initiative. 116 CONG. REC. 44599, 91st Cong. 2d Sess., Jan. 2, 1971 [veto message on H.R. 17809, Federal employee wage scale for "blue-collar" employees]. *Note:* In this instance, no member of the Committee on Post Office and Civil Service was available to move that the bill and message be referred to that committee. The Speaker by unanimous consent therefore ordered the bill referred upon his own initiative.

§ 14.5 A veto message from the President was, on motion, referred to the originating committee and ordered printed. 118 CONG. REC. 23671, 92d Cong. 2d Sess., June 30, 1972 [H. Doc. No. 92-320, veto message on H.R. 13918, increased financing for the Corporation for Public Broadcasting].

§ 14.6 A veto message was, by unanimous consent, referred to the committee that reported the bill and ordered printed as a House document. 111 CONG. REC. 23628, 89th Cong. 1st Sess., Sept. 14, 1965.

§ 14.7 Where the House sustains the President's veto of a bill, the veto message and the bill are referred to the committee which originally reported the bill. 116 CONG. REC. 1552, 91st Cong. 2d Sess., Jan. 28, 1970; 118 CONG. REC. 28415, 92d Cong. 2d Sess., Aug. 16, 1972; 119 CONG. REC. 21777, 21778, 93d Cong. 1st Sess., June 27, 1973.

§ 14.8 The White House, having discovered an error in a veto message transmitted to the House, sent a further message to the House correcting the error. Both messages were referred to committee. 106 CONG. REC. 11060, 86th Cong. 2d Sess., May 25, 1960. [*Note:* The veto message on H.R. 7947 was received in the House on May 16, 1960, at which time the bill and message were referred to the Committee on Ways and Means and ordered printed. The message correcting the error was referred to the same committee but was not ordered printed.]

§ 14.9 A privileged motion to discharge a committee from further consideration of a vetoed bill was laid on the table. 111 CONG. REC. 22958, 89th Cong. 1st Sess., Sept. 7, 1965. *Note:* H.R. 8439, vetoed by President Johnson on August 21, was laid before the

House on August 23 and referred to the Committee on Armed Services. That committee had reported a similar bill (H.R. 10775), which contained a revision of the language to which the President had taken exception, prior to a Member's rising to move consideration of the vetoed bill.

§ 14.10 Further consideration of a Presidential veto message having been postponed to a day certain, a motion to refer the message to committee is privileged when the message is again before the House as unfinished business. 121 CONG. REC. 5972, 94th Cong. 1st Sess., Mar. 11, 1975 [H.R. 1767, to suspend the President's authority under § 232 of the Trade Expansion Act].

§ 14.11 Where a veto message has been received and consideration thereof postponed to a day certain, consideration of the message on that day is the unfinished business and it is in order at that time to move to refer the message together with the accompanying bill to a committee. 121 CONG. REC. 24476, 94th Cong. 1st Sess., July 24, 1975 [H.R. 4035].

§ 14.12 By unanimous consent, a Senate bill passed by the Senate over the President's veto was referred to a committee in the House. 122 CONG. REC. 874, 875, 94th Cong. 2d Sess., Jan. 26, 1976 [S. 2350, to include the Secretary of the Treasury as a member of the National Security Council].

§ 15. Consideration of Vetoed Bills and Veto Messages

§ 15.1 Veto messages from the President are laid before the House by the Speaker, read, and entered on the Journal. 111 CONG. REC. 23623, 89th Cong. 1st Sess., Sept. 13, 1965 [veto of H.R. 3329, a private bill to incorporate the Youth Councils on Civil Affairs].

§ 15.2 Where the President on the same day vetoed two bills, he returned them to the House with separate veto messages—although the content of the two messages was identical except for the introductory paragraphs. Both were read and entered on the Journal. 116 CONG. REC. 28170-72, 91st Cong. 2d Sess., Aug. 11, 1970. *Note:* During the reading of the second veto message, the minority leader asked unanimous consent that further reading of the message be dispensed with. The Speaker, feeling that the constitutional requirement that the President's objection be entered on the Journal (U.S. Const. art. I, § 7) should be followed explicitly, declined to entertain the request and directed that the Clerk continue to read the veto message.

§ 15.3 A veto message from the President having been laid before the House, the pending question is whether the House will, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding. 118 CONG. REC. 37054-61, 92d Cong. 2d Sess., Oct. 18, 1972 [S. 2770, Water Pollution Control Act of 1972]; 119 CONG. REC. 16764, 16773, 93d Cong. 1st Sess., May 23, 1973 [S. 518, to require Senate confirmation of the Director and Deputy Director of the Office of Management and Budget]. See also 118 CONG. REC. 33734-43, 92d Cong. 2d Sess., Oct. 4, 1972 [H.R. 15927, increasing railroad retirement benefits].

§ 15.4 The question of whether the House will, on reconsideration, pass a vetoed bill, the objections of the President to the contrary notwithstanding, is the pending question when a veto message is before the House as unfinished business. 116 CONG. REC. 1483, 1552, 91st Cong. 2d Sess., Jan. 28, 1970; 116 CONG. REC. 21529-32, 91st Cong. 2d Sess., June 25, 1970 [veto message on H.R. 11102, Medical Facilities Construction and Modernization Amendments of 1970]; 116 CONG. REC. 28758, 28779, 91st Cong. 2d Sess., Aug. 13, 1970 [veto message on H.R. 16916, Office of Education Appropriation Act, fiscal 1971].

§ 15.5 Where the House adjourned prior to disposition of a veto message from the President, the bill came up as unfinished business on the next legislative day. 111 CONG. REC. 23628, 89th Cong. 1st Sess., Sept. 14, 1965 [H.R. 3329].

§ 15.6 Consideration of a veto message on the day to which it has been postponed is highly privileged and becomes the unfinished business. 116 CONG. REC. 1365, 91st Cong. 2d Sess., Jan. 27, 1970 [veto message on H.R. 13111]. See also 105 CONG. REC. 7200, 7207, 86th Cong. 1st Sess., Apr. 30, 1959, for a statement of the Speaker that a veto message is the unfinished business before the House, the consideration of the message having been postponed from the preceding day by motion.

§ 15.7 The consideration of a veto message from the President is a matter of the highest privilege, and may interrupt consideration of a conference report and amendments in disagreement if the previous question has not been ordered. 124 CONG. REC. 33704, 95th Cong. 2d Sess., Oct. 5, 1978 [H.R. 12928].

§ 15.8 Under the precedents of the House, when a veto message is before the House for consideration either de novo or as unfinished business, the motions to lay on the table, to postpone, and to refer take precedence in the order named over the question of reconsideration, the objections of the President to the contrary notwithstanding, and a Member may not in that situation invoke the provisions of Rule XVI clause 4 to move the previous question on the question of reconsideration as preferential over the motion to refer, where the Chair has not yet stated the question to be pending on overriding the veto. 124 CONG. REC. 19332, 95th Cong. 2d Sess., June 28, 1978 [H.R. 3161], ruling that a motion to refer such a message to committee took precedence over the question of passing the bill and over a motion for the previous question thereon, where the Chair had not yet stated the question on overriding the veto.

§ 16. — Postponement

§ 16.1 The constitutional mandate that "the House shall proceed to consider" a vetoed bill (U.S. Const. Art. I § 7) means that the House shall immediately proceed to consider it under the rules of the House, and that the ordinary motions under the rules of the House are in order. *House Rules and Manual* (96th Cong.) § 108. Thus, while the House usually takes immediate action on a veto message from the President, the consideration of the message may be postponed to a day certain by unanimous consent or by motion. 116 CONG. REC. 1365, 91st Cong. 2d Sess., Jan. 27, 1970 [H.R. 13111]; 119 CONG. REC. 11262, 93d Cong. 1st Sess., Apr. 5, 1973 [H.R. 3298]; 121 CONG. REC. 41880, 94th Cong. 1st Sess., Dec. 19, 1975 [H.R. 8069]; 124 CONG. REC. 18311, 95th Cong. 2d Sess., June 21, 1978 [H.R. 3161].

§ 16.2 A Member moving to postpone further consideration of a veto message to a day certain is recognized to control one hour of debate on the motion. 116 CONG. REC. 1365, 91st Cong. 2d Sess., Jan. 27, 1970 [veto message on H.R. 13111].

§ 16.3 By motion, the House has postponed to the following day consideration of a Presidential veto message transmitted from the Senate. 105 CONG. REC. 7627, 86th Cong. 1st Sess., Apr. 29, 1959.

§ 16.4 By unanimous consent, the House has deferred for three calendar days the further consideration of a veto message which had been read. 106 CONG. REC. 3257, 86th Cong. 2d Sess., Feb. 23, 1960.

§ 16.5 The House, having postponed consideration of a veto message to a day certain by motion, further postponed consideration by unanimous consent. 119 CONG. REC. 35444, 93d Cong. 1st Sess., Oct. 30, 1973 [H.J. Res. 542, war powers resolution]. *Note:* Consideration had originally been postponed to Novem-

ber 1 by motion. A motion to further postpone consideration would have been in order only on November 1 when the veto message was again laid before the House. To further postpone consideration prior to that date, unanimous consent was required.

§ 16.6 Consideration of a veto message from the President may be postponed to a day certain by unanimous consent or by motion. 121 CONG. REC. 41880, 94th Cong. 1st Sess., Dec. 19, 1975 [veto message on H.R. 8069, the Labor, HEW Appropriation Act, 1976].

§ 16.7 Where the House receives a message that the Senate has overriden a Presidential veto of a Senate bill on the same day to which consideration of another veto message on a House bill has been postponed as unfinished business, the Speaker has discretion to determine which vetoed bill will be first considered and may lay the veto of the Senate bill before the House prior to proceeding to the unfinished business. 122 CONG. REC. 23400, 23421, 94th Cong. 2d Sess., July 22, 1976 [S. 3201, the Public Works Employment Act of 1976; H.R. 12384, military construction authorization, fiscal 1977].

§ 16.8 In the 95th Congress, the House agreed to a unanimous-consent request that consideration of any veto message received by the Clerk during an adjournment of the House for more than three days to a day certain be postponed until the day after the day the House reconvened. 124 CONG. REC. 26802, 95th Cong. 2d Sess., Aug. 17, 1978.

§ 17. Voting and Debate; Passing Bills Over a Veto

§ 17.1 The Speaker normally recognizes the chairman of the committee or subcommittee which reported the bill to control the debate on the veto message on that bill. However, the Speaker has recognized the majority leader to control debate on the question of overriding the President's veto of an appropriation bill. 118 CONG. REC. 28415, 92d Cong. 2d Sess., Aug. 16, 1972 [H.R. 15417].

§ 17.2 The chairman of the committee which had reported a vetoed Senate bill was recognized to control one hour of debate on the question of overriding the veto. 119 CONG. REC. 16764, 93d Cong. 1st Sess., May 23, 1973 [S. 518].

§ 17.3 The Speaker recognized the Chairman of the Committee on Interstate and Foreign Commerce to control one hour of debate on the question of overriding the President's veto of a bill reported from that committee. 118 CONG. REC. 33734-43, 92d Cong. 2d Sess., Oct. 4, 1972. The House voted to override the President's veto of a bill providing for an increase in railroad retirement benefits, H.R. 15927.

§ 17.4 Debate on the question of overriding the President's veto is under the hour rule. 116 CONG. REC. 1483, 1552, 91st Cong. 2d Sess., Jan. 28, 1970; 116 CONG. REC. 21529-32, 91st Cong. 2d Sess., June 25, 1970 [veto message on H.R. 11102, medical facilities construction and modernization amendments of 1970]; 116 CONG. REC. 28758, 28779, 91st Cong. 2d Sess., Aug. 13, 1970 [veto message on H.R. 16916, Office of Education Appropriation Act, fiscal 1971]. *Note:* In the last instance the Chairman of the Committee on Appropriations favored sustaining the President's veto, and for that reason agreed that the Speaker should recognize the chairman of the subcommittee to control the hour of debate.

§ 17.5 In response to a parliamentary inquiry the Speaker indicated that debate on the question of passing a bill over a Presidential veto would be under the hour rule, and that the Member recognized to control that hour could use as much of that time as he desired. 116 CONG. REC. 750, 91st Cong. 2d Sess., Jan. 22, 1970.

§ 17.6 Under the Constitution, the vote on passage of a bill over the President's veto must be by the yeas and nays. 105 CONG. REC. 18982, 86th Cong. 1st Sess., Sept. 10, 1959; 106 CONG. REC. 14451, 15183, 86th Cong. 2d Sess., July 1, 1960.

§ 17.7 A House bill authorizing appropriations for hospital construction and modernization became law notwithstanding the President's veto, two-thirds of the House and Senate having voted to pass the bill over the President's objections. 116 CONG. REC. 22277, 91st Cong. 2d Sess., June 30, 1970 [H.R. 11102, Hill-Burton Hospital Construction Act].

§ 17.8 The House by two-thirds vote enacted into law a Senate bill passed by the Senate over the President's veto. 118 CONG. REC. 37054-61, 92d Cong. 2d Sess., Oct. 18, 1972 [S. 2770, Water Pollution Control Act of 1972].

§ 17.9 *Note:* Where both Houses override a Presidential veto, the last House to act transmits the bill to the Archives. After the House vote, the Clerk from the Committee on House Administration delivers the Senate bill to the Archives.

§ 17.10 Where the President had returned a House bill without his signature to the Clerk (who had been authorized to receive messages from the President during an adjournment to a day certain), the House proceeded to reconsider and pass the bill over the President's veto (after postponing consideration to a subsequent day) thereby declining to accept the President's assertion that the bill had been "pocket-vetoed." 120 CONG. REC. 36614, 36622, 93d Cong. 2d Sess., Nov. 20, 1974 [H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974].

§ 17.11 The House voted to sustain the President's veto of a private bill. 120 CONG. REC. 36634-36, 93d Cong. 2d Sess., Nov. 20, 1974 [H.R. 6624, for the relief of Alvin V. Burt et al.]. *Note:* The Parliamentary Consultant to the Speaker could not recall a time when the House attempted to override the veto of a private bill. Such vetoes are normally referred back to the committee of original jurisdiction, but at the behest of a Member and with the concurrence of the Judiciary Committee, a vote was taken on overriding the veto.

§ 18. House-Senate Messages

§ 18.1 Where the House sustains the veto of a Senate bill, the Speaker directs the Clerk to inform the Senate of the House action. 119 CONG. REC. 16764, 16773, 93d Cong. 1st Sess., May 23, 1973 [S. 518]. See also 105 CONG. REC. 7160, 86th Cong. 1st Sess., Apr. 30, 1959, for a message to the Senate informing that body that the House has sustained a Presidential veto of a Senate bill.

§ 18.2 The House notifies the Senate by message when the House has sustained a Presidential veto of a House bill. 105 CONG. REC. 17708, 86th Cong. 1st Sess., Sept. 2, 1959.

§ 18.3 When the House passes a House bill over a Presidential veto, it messages its action to the Senate. 106 CONG. REC. 15343, 86th Cong. 2d Sess., July 1, 1960; 116 CONG. REC. 21529-32, 91st Cong. 2d Sess., June 25, 1970 [veto of H.R. 11102, medical facilities construction and modernization amendments of 1970]; 116 CONG. REC. 28758, 28779, 91st Cong. 2d Sess., Aug. 13, 1970 [veto of H.R. 16916, Office of Education Appropriation Act, fiscal 1971].

§ 18.4 The Senate notifies the House when it passes a Senate bill over a Presidential veto. 105 CONG. REC. 7027, 86th Cong. 1st Sess., Apr. 29, 1959; 118 CONG. REC. 37054-61, 92d Cong. 2d Sess., Oct. 18, 1972 [S. 2770, Water Pollution Control Act of 1972].

§ 18.5 Where the Senate overrides the President's veto of a Senate bill and messages that

action to the House, the Speaker lays the Senate message before the House on the day it is received and then lays the President's veto message before the House. 119 CONG. REC. 16764, 93d Cong. 1st Sess., May 23, 1973 [S. 518, to require Senate confirmation of the Director and Deputy Director of the Office of Management and Budget]; 121 CONG. REC. 25221, 25222, 94th Cong. 1st Sess., July 28, 1975 [veto message on the bill S. 66, an act to amend the Public Health Service Act]; 122 CONG. REC. 25455, 25456, 94th Cong. 2d Sess., Aug. 4, 1976 [S. 921, the Federal Coal Leasing Amendments of 1976].

D. CONGRESSIONAL DISAPPROVAL (OR "VETO") POWER

§ 19. In General; Procedure

§ 19.1 Reorganization plans prepared by the executive branch may, when the President is authorized to do so by law, be submitted by the President to Congress. After consideration of the plan in committee (Government Operations Committee in both House and Senate), either House, pursuant to a resolution reported by committees, may disapprove the plan. Such a resolution is highly privileged (5 USC § 912). 107 CONG. REC. 10448, 10462, 87th Cong. 1st Sess., June 15, 1961, where a reorganization plan of the President, affecting the Federal Communications Commission, was disapproved by the House after consideration of a resolution reported by the Committee on Government Operations.

§ 19.2 A resolution disapproving a reorganization plan for the National Labor Relations Board was agreed to. 107 CONG. REC. 13069, 87th Cong. 1st Sess., July 20, 1961.

§ 19.3 Resolutions disapproving reorganization plans have been rejected by the House. 107 CONG. REC. 10839, 10843, 87th Cong. 1st Sess., June 20, 1961; 107 CONG. REC. 10844, 10855, 87th Cong. 1st Sess., June 20, 1961.

§ 19.4 A resolution disapproving a reorganization plan for the Securities and Exchange Commission, unfavorably reported, was called up, debated for 90 minutes, and then rejected by the House. 107 CONG. REC. 10463, 10471, 87th Cong. 1st Sess., June 15, 1961.

§ 19.5 Pursuant to the Reorganization Act of 1977 (5 USC § 912), a motion that the House resolve itself into the Committee of the Whole for consideration of a resolution reported from committee disapproving a reorganization plan submitted by the President is in order at any time; and general debate in the Committee of the Whole on the resolution is limited to not more than 10 hours, which may be limited by motion (or unanimous consent), equally divided and controlled by the proponents and opponents of the resolution. At the conclusion of such debate, the resolution is read but is not amendable, and the motion to rise and report the resolution to the House with a recommendation that it be rejected (or agreed to) is then in order. 123 CONG. REC. 33772-80, 95th Cong. 1st Sess., Oct. 14, 1977 [H. Res. 688, to disapprove Reorganization Plan No. 1 of 1977].

§ 19.6 Pursuant to the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act, the Speaker may refer to the Union Calendar upon introduction a concurrent resolution approving a proposed agreement between the United States and another country concerning peaceful uses of nuclear energy. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 15, 1979 [H. Con. Res. 195].

§ 19.7 Concurrent resolutions reported from the Joint Committee on Atomic Energy (or passed by the Senate and on the Speaker's table) disapproving certain agreements for

peaceful uses of nuclear material either within or following the expiration of 60 days of submission [other than those concurrent resolutions which approve or disapprove of another category of such agreements and which are privileged under Pub. L. No. 93-485] are not privileged under Public Law No. 93-377 and may be called up in the House only by unanimous consent. 121 CONG. REC. 6785, 94th Cong. 1st Sess., Mar. 17, 1975 [H. Con. Res. 115, 116; S. Con. Res. 13, 14].

§ 19.8 Pursuant to Public Law No. 93-618 §151(e)(1), where the House has received a concurrent resolution of approval from the Senate prior to agreeing to a similar House concurrent resolution approving nondiscriminatory product treatment, the Speaker is required to put the question on the Senate resolution's adoption, and not on the House measure. 121 CONG. REC. 25215, 94th Cong. 1st Sess., July 28, 1975 [H. Con. Res. 252, approving the extension of nondiscriminatory treatment to the products of the Socialist Republic of Romania].

§ 19.9 The House adopted a privileged resolution disapproving certain General Services Administration proposals regulating the disposition of former President Nixon's tape recordings and related materials. 122 CONG. REC. 30250-52, 94th Cong. 2d Sess., Sept. 14, 1976 [H. Res. 1505]. *Note:* In this instance, pursuant to section 104(d)(5)(E) of Public Law No. 93-526, a motion that the House proceed to the consideration of the resolution, reported from the Committee on House Administration and disapproving the regulations, was privileged any time after reported (subject to the Rule XI three-day requirement and exception therefrom) or upon adoption of a discharge motion after expiration of 60 calendar days.

§ 19.10 The Trade Act of 1974 (Pub. L. No. 93–618) provides for the introduction upon request by the Majority and Minority Leaders or Members designated by them of a measure "approving the extension of nondiscriminatory treatment with respect to the products" of certain foreign countries and requires referral of that measure to the Committee on Ways and Means. The Act further provides for a privileged motion that the House resolve into the Committee of the Whole for consideration of the measure when reported from the Committee on Ways and Means. Debate on the measure may continue not to exceed 20 hours, equally divided and controlled between the proponents and opponents of the measure, but such debate may be limited by unanimous consent or by motion. 124 CONG. REC. 14867, 95th Cong. 2d Sess., May 22, 1978 [H. Con. Res. 555]. A motion to limit debate on an implementing bill pursuant to the Trade Act of 1974 must be made in the House, and not in the Committee of the Whole, and may be made either pending the motion to resolve into Committee of the Whole or at a later time (after the Committee has risen without completing action thereon). Debate on such a bill must be equally divided and controlled among those favoring and those opposing the bill under the Act, and unanimous consent is required to divide the time between the chairman and ranking minority member of the committee if both favor the bill. Lacking unanimous-consent agreement on the division of time for debate on the bill, a Member opposed to the bill is entitled to control 10 hours of debate in opposition, with priority of recognition to opposing members of the Committee on Ways and Means; and the Member recognized to control the time in opposition may not be forced to use less than that amount of time unless the Committee rises and the House limits further debate in the Committee of the Whole. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 10, 1979 [H.R. 4537]. After general debate in the Committee of the Whole has expired on a measure approving extension of nondiscriminatory treatment, the Chair recognizes the manager of the measure for a motion that the Committee rise and report the resolution to the House with the recommendation

that the measure be agreed (or disagreed) to. 124 CONG. REC. 14875, 95th Cong. 2d Sess., May 22, 1978 [H. Con. Res. 555]

§ 19.11 The Alaska Natural Gas Transportation Act permits the privileged consideration of joint resolutions approving Presidential decisions on the Alaska natural gas transportation system under a procedure precluding substantive amendments, when those resolutions are reported from committee or are discharged after 30 days. 123 CONG. REC. 36347, 95th Cong. 1st Sess., Nov. 1, 1977 [H.J. Res. 621]. In this instance, by unanimous consent, the House considered in the House as in the Committee of the Whole a joint resolution, privileged for consideration in the Committee of the Whole pursuant to the Alaska Natural Gas Transportation Act [Pub. L. No. 94-586, § 8(d)(5)], approving a Presidential decision on the Alaska natural gas transportation system.

§ 19.12 The House considered by unanimous consent in the House as in the Committee of the Whole a concurrent resolution approving a revised schedule proposed by the Pension Benefit Guaranty Corporation, reported by both committees to which it had been referred, which was privileged for consideration in the Committee of the Whole pursuant to the Employee Retirement Income Security Act of 1976 (Pub. L. No. 93-406, § 4006). 123 CONG. REC. 36644, 95th Cong. 1st Sess., Nov. 2, 1977 [H. Con. Res. 369]. *Note:* Although both the Committee on Education and Labor and the Committee on Ways and Means had reported the resolution, only the report of the former committee had been available for three days, as required by Rule XI clause 2(l)(6). Section 4006(b)(6) of the ERISA Act provides, however, that a motion to proceed to the consideration of such a resolution is privileged "when *a committee* has reported" it [emphasis supplied]; therefore, as long as one committee's report has been available for three days, consideration is privileged.

§ 19.13 Pursuant to the Atomic Energy Act of 1954 (as amended by the Nuclear Non-Proliferation Act of 1978), debate on a privileged concurrent resolution disapproving the export of nuclear material or technology is limited to not to exceed 10 hours, but a motion to limit debate is in order, and may be offered pending the motion to resolve into the Committee of the Whole for consideration of the concurrent resolution. 124 CONG. REC. 20506, 95th Cong. 2d Sess., July 12, 1978 [H. Con. Res. 599].

§ 19.14 In January 1982, a U.S. Court of Appeals held the one-house legislative veto provision in § 202(c) of the Natural Gas Policy Act of 1978 (15 USC § 3341(b)) to be unconstitutional. This statute directed the Federal Energy Regulatory Commission to implement a pricing program for natural gas and to issue a rule expanding the program to certain industrial users. The statute further provided that the rule was to take effect only if neither House of Congress adopted a resolution disapproving the rule. In its decision the circuit court (for the District of Columbia) said that the primary basis for its holding was that the one-house veto violates Article I section 7, both by preventing the President from exercising his veto power, and by permitting legislative action by only one House of Congress. The circuit court also found the one-house veto to contravene the separation of powers principle implicit in Articles I, II, and III because it authorizes the legislature to share powers properly exercised by the other two branches of government. The court declared that Article I section 7 sets forth the fundamental prerequisites to the enactment of federal laws—bicameral passage of legislation and presentation for approval or disapproval by the President, and held that congressional disapproval of final agency rules must comply with these requirements. The defect in the one-house veto, said the court, is that "[I]t represents an attempt by Congress to retain direct control over delegated administrative

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power. Congress may provide detailed rules of conduct to be administered without discretion by administrative officers, or it may provide broad policy guidance and leave the details to be filled in by administrative officers exercising substantial discretion. It may not, however, insert one of its houses as an effective administrative decision-maker." The court added that Congress may choose to use a resolution of disapproval as a means of expediting action, but only if it acts by both Houses and presents the resolution to the President. *Consumer Energy Council of America, et al.* v *Federal Energy Regulatory Commission et al.*, Docket Nos. 80–2184, 80–2312, Jan. 29, 1982. In the 95th Congress, the Speaker laid before the House a message from the President discussing and opposing "legislative veto" provisions contained in legislation, allowing either or both Houses of Congress to disapprove proposed actions or regulations by the executive branch; the message was read and referred to the Committee of the Whole House on the State of the Union. 124 CONG. REC. 18308, 95th Cong. 2d Sess., June 21, 1978.

§ 19.15 In messages to Congress submitting various energy conservation contingency proposals pursuant to the Energy Policy and Conservation Act, the President recommended that a joint resolution, since it would have the force of law, be the appropriate legislative vehicle, although the statute indicates that approval must be by a privileged simple resolution of approval in each House. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 1, 1979 [H. Doc. No. 96-62]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 5, 1979 [H. Doc. No. 96-90].

§ 19.16 Where a statute provides that authority granted to the executive branch may not be exercised unless approved by the Congress and specifies the procedures to be followed in the House in the consideration of approval resolutions, but also provides that such procedures are enacted pursuant to the rulemaking power of the House with recognition of the right of the House to change its rules at any time, the Committee on Rules may report as privileged a special order which provides different procedures for such approval resolutions. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 10, 1979 [H. Res. 262, providing for consideration of H. Res. 212, to approve a standby gasoline rationing plan and of H. Res. 266, approving an amendment to the rationing plan]. In this instance, a special order was reported from the Committee on Rules, providing for concurrent consideration in the Committee of the Whole of two resolutions approving an executive determination and an amendment thereto, ordering the previous question on both resolutions to one indivisible vote on final adoption, thereby waiving the requirement of the statute that there be separate resolutions for the plan and the amendment.

§ 19.17 Pursuant to Public Law No. 93–198, § 604(g), a motion to proceed to the consideration of a concurrent resolution reported from the Committee on the District of Columbia disapproving an action taken by the D.C. City Council is privileged any time after that committee has filed its report on the concurrent resolution (or has been discharged therefrom). Under § 604(h), debate on such a resolution may be limited by motion, but otherwise extends not to exceed 10 hours. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 20, 1979 [H. Con. Res. 228].

Chapter 25

Appropriations

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A. Introductory

§ 1. General Appropriation Bills; Privileged Status

§ 1.1 Rule XI clause 4 gives the Committee on Appropriations the right "to report at any time" on general appropriation bills. This rule makes a motion to proceed to the consideration of such measures privileged in the House, subject to the three-day rule (discussed in § 20, infra). But this privilege extends only to "general" appropriation bills. A joint resolution providing an appropriation for a single government agency is not a "general" appropriation bill within the meaning of clause 23 Rule XI [now clause 4 of Rule XI], and is not reported as privileged. 108 Cong. Rec. 1352, 87th Cong. 2d Sess., Jan. 31, 1962; 111 Cong. Rec. 9518, 89th Cong. 1st Sess., May 5, 1965. A joint resolution making supplemental appropriations for one agency is not a general appropriation bill and is not subject to points of order under Rule XXI clause 2. 123 Cong. Rec. 3473, 95th Cong. 1st Sess., Feb. 3, 1977 [H.J. Res. 227]; nor is a joint resolution providing an appropriation for a single government agency and permitting transfer of a portion of those funds to another agency. 125 Cong. Rec. p. ....., 96th Cong. 1st Sess., Oct. 25, 1979 [H.J. Res. 430]. A joint resolution reported from the Committee on Appropriations transferring appropriated funds from one agency to another is not a general appropriation bill, and the provisions of clauses 2 and 6 of Rule XXI, prohibiting legislation and reappropriations on general appropriation bills, do not apply. 126 Cong. Rec. p. ....., 96th Cong. 2d Sess., Mar. 26, 1980 [H.J. Res. 514].

§ 1.2 The Committee on Appropriations filed as privileged a joint resolution making supplemental appropriations to two diverse departments for the balance of the fiscal year. 121 Cong. Rec. 11294, 11295, 94th Cong. 1st Sess., Apr. 22, 1975 [H.J. Res. 407].

§ 1.3 A joint resolution making an appropriation to a department for a specific purpose is not a "general" appropriation bill within the meaning of clause 23 Rule XI [now clause 4 of Rule XI], and is therefore not privileged. 117 Cong. Rec. 29384, 92d Cong. 1st Sess., Aug. 4, 1971 [H.J. Res. 833].

§ 2. Continuing Appropriations

§ 2.1 A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill" within the meaning of clause 2 Rule XXI. See 113 Cong. Rec. 26379, 90th Cong. 1st Sess., Sept. 21, 1967.

§ 2.2 A joint resolution continuing certain appropriations pending enactment of general appropriation bills for the ensuing fiscal year is not reported or called up as a privileged general appropriation bill and is therefore not subject to the provisions of Rule XXI clause 2. 121 Cong. Rec. 19176, 94th Cong. 1st Sess., June 17, 1975 [H.J. Res. 499].

§ 2.3 The restrictions against unauthorized items or legislation in a general appropriation bill or amendment thereto are not applicable to a joint resolution continuing appropriations, despite inclusion of diverse appropriations which are not "continuing" in nature. 121 Cong. Rec. 19176, 94th Cong. 1st Sess., June 17, 1975 [H.J. Res. 499].

§ 2.4 By unanimous consent, the House agreed to consider in the House a nonprivileged joint resolution not reported from the Committee on Appropriations transferring funds to an agency, the appropriations for which had lapsed, where the Attorney General had issued an opinion to the President stating that existing law, the Antideficiency Act—31 USC § 665(a), prohibited the expenditure of funds by any agency except to terminate its

operations during a period of lapsed appropriations. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 1, 1980 [H.J. Res. 541].

§ 3. Appropriations in Legislative Bills

§ 3.1 *Note:* Restrictions against the inclusion of appropriations in legislative bills are provided for by House rule, which states in part that no bill or joint resolution carrying appropriations shall be reported by a committee not having jurisdiction to report appropriations. The rule also prohibits amendments proposing appropriations on a legislative bill. Rule XXI clause 4. This provision, without change, was renumbered clause 5, effective Jan. 3, 1975.

§ 3.2 A point of order under clause 4 [now clause 5] Rule XXI against an appropriation in a bill reported by a legislative committee "may be raised at any time" under the five-minute rule. And in the event the offending language is not stricken by amendment it can still be reached by a point of order. 112 CONG. REC. 10894, 89th Cong. 2d Sess., May 18, 1966 [H.R.14544]. A point of order under this rule should be directed against the offending provision at the appropriate time in Committee of the Whole (during the five-minute rule) and does not lie in the House prior to consideration of the bill. 121 CONG. REC. 28270, 28271, 94th Cong. 1st Sess., Sept. 10, 1975 [H.R. 9005]. *Note:* The intervention of debate, or amendments, following the reading of the section do not preclude points of order under this rule.

§ 3.3 A point of order under Rule XXI clause 5 against an appropriation in a legislative bill should be directed against that portion of the bill (or against the amendment thereto) in which the appropriation is contained and cannot be directed against the consideration of the entire bill. 121 CONG. REC. 12049, 94th Cong. 1st Sess., Apr. 28, 1975 [H.R. 4222]. If such a point of order is sustained with respect to a portion of a section of a legislative bill containing an appropriation, only that portion is stricken. But if the point of order is directed against the entire section for inclusion of that language, the entire section will be ruled out. 120 CONG. REC. 9845, 9846, 93d Cong. 2d Sess., Apr. 4, 1974 [H.R. 12565].

§ 3.4 The provision in Rule XXI clause 5, that a point of order against an amendment containing an appropriation to a legislative bill can be made "at any time" has been interpreted to require the point of order to be raised during the pendency of the amendment under the five-minute rule. Such a point of order comes too late after the amendment has been agreed to and has become part of the text of the bill, and cannot then be raised against further consideration of the bill as amended. 121 CONG. REC. 12049, 94th Cong. 1st Sess., Apr. 28, 1975 [H.R. 4222].

§ 3.5 Under Rule XXI clause 5, a point of order against an amendment to a legislative bill containing an appropriation can be raised "at any time" during its pendency, even in its amended form, though the point of order is against the amendment as amended by a substitute and though no point of order was directed against the substitute prior to its adoption. 121 CONG. REC. 11512, 11513, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096]. In this instance, the proponent of an amendment in the nature of a substitute for a legislative bill, which was amended by a substitute containing an appropriation, made the point of order that his amendment as amended violated Rule XXI clause 5, which point of order was timely under the rule and was sustained.

§ 3.6 The Speaker's sequential referral to the Committee on Appropriations of a bill reported from a legislative committee for consideration of appropriation provisions therein does not obviate Rule XXI clause 5—proscribing legislative committees from reporting appropriations provisions—since the authority of

the Appropriations Committee is limited to recommendation of amendments striking or changing the appropriation and since sequential referrals were not intended to foreclose points of order under other House rules. 121 CONG. REC. 35611, 94th Cong. 1st Sess., Nov. 10, 1975 [H.R. 6461, the Public Broadcasting Financing Act of 1975], where a point of order against a direct appropriation contained in a bill initially reported from a legislative committee and then sequentially referred to and reported adversely by the Committee on Appropriations was conceded and sustained as in violation of Rule XXI clause 5.

§ 3.7 A waiver of points of order against an appropriation in a legislative bill does not extend to the protection of an amendment containing an identical appropriation, as under Rule XXI clause 5 a point of order against any such bill or amendment can be raised "at any time." 121 CONG. REC. 11512, 11513, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act].

§ 3.8 Provisions in an amendment in the nature of a substitute for a legislative bill: (1) removing restrictions in appropriations laws on the availability of certain funds therein appropriated (thereby permitting new uses of those funds); and (2) providing that "funds heretofore available may be used" for a new purpose, were held to constitute violations of Rule XXI clause 5, and the amendment was ruled out despite a waiver of points of order against identical provisions in the bill to which offered. 121 CONG. REC. 11512, 11513, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act].

§ 3.9 Although an appropriation in a legislative bill is permitted to remain by a special rule waiving points of order, an amendment providing additional uses of that appropriation is not protected by the waiver. 120 CONG. REC. 27496, 27497, 93d Cong. 2d Sess., Aug. 8, 1974 [H.R. 16090, the Federal Election Campaign Act of 1974], where to a title of a legislative bill directly appropriating funds from the Treasury to special campaign funds and permitting payment from those special funds to political candidates, which provisions were permitted to remain in the bill by a special rule waiving all points of order against the bill under Rule XXI clause 4 [now clause 5], an amendment directing that payments be made from a special fund for a new purpose (to subsidize campaign mailing) not contemplated in the bill was held to constitute an appropriation not protected by the special rule and was ruled out. For resolutions waiving points of order against a section of a legislative bill containing an appropriation, see 122 CONG. REC. 18304, 94th Cong. 2d Sess., Apr. 26, 1976 [H. Res. 1144]; and 123 CONG. REC. 11089, 11091, 95th Cong. 1st Sess., June 9, 1977 [H. Res. 617].

§ 3.10 The House rejected the previous question on a resolution reported from the Committee on Rules and then adopted an amendment striking out waivers of points of order against appropriations contained in the legislative bill and in a committee amendment thereto made in order by the resolution. 120 CONG. REC. 9812, 9813, 9819, 9820, 93d Cong. 2d Sess., Apr. 4, 1974 [H. Res. 1026, providing for consideration of H.R. 12565, supplemental military procurement authorization, fiscal 1974].

§ 3.11 A provision in a legislative bill authorizing the availability of certain loan receipts is not an appropriation within the meaning of Rule XXI clause 5, where it can be shown that the actual availability of those receipts remains contingent upon subsequent enactment of an appropriation act. 121 CONG. REC. 28303, 94th Cong. 1st Sess., Sept. 10, 1975 [H.R. 9005, the International Development and Food Assistance Act of 1975].

§ 3.12 While a legislative committee may not extend the availability of funds previously appropriated, it is in order in a legislative bill to provide that funds authorized therein shall remain available until expended when appropriated. 121 CONG. REC. 28303, 94th Cong. 1st Sess., Sept. 10, 1975 [H.R. 9005, the International Development and Food Assistance Act of 1975].

§ 3.13 Language in an amendment to a bill reported by the Committee on Banking and Currency increasing the authorization for loans and grants for technical assistance and providing that "receipts from such repayments shall be credited to the appropriation available for assistance under this section" where the receipts so credited could not be reused without further appropriation thereof was held not to be an appropriation within the purview of clause 4 [now clause 5] Rule XXI. 109 CONG. REC. 12722, 88th Cong. 1st Sess., June 12, 1963 [H.R. 4996, Area Redevelopment Act amendments, 1963].

§ 3.14 To a section of a committee substitute permitting construction costs for public mass transportation systems and facilities on federal-aid highways to be financed by the highway trust fund, an amendment permitting the acquisition of buses with funds already apportioned from the highway trust fund was held to constitute an appropriation of existing funds not in order in a legislative bill and was ruled out in violation of clause 4 [now clause 5] Rule XXI. 118 CONG. REC. 34115, 92d Cong. 2d Sess., Oct. 5, 1972 [H.R. 16656, Federal-aid Highway Act of 1972].

§ 3.15 In a bill reported from the Committee on Banking and Currency, providing *inter alia,* a revolving fund in the Treasury for higher education facility loans, a provision authorizing the Commissioner of Education to "transfer to the fund available appropriations under § 303(c) [of the Higher Education Act] to provide capital for the fund", was held to constitute an appropriation and was ruled out as a violation of clause 4 [now clause 5] Rule XXI. 112 CONG. REC. 10912, 10918, 89th Cong. 2d Sess., May 18, 1966 [H.R. 14544, Participation Sales Act, 1966].

§ 3.16 In a bill authorizing funds for the Foreign Assistance Act, language making excess foreign currencies available to stimulate private enterprise abroad was conceded to be an appropriation and in violation of clause 4 [now clause 5] Rule XXI. 115 CONG. REC. 23974, 90th Cong. 1st Sess., Aug. 24, 1967 [H.R. 12048, Foreign Assistance Act, 1967].

§ 3.17 To a bill authorizing certain government agencies (trustors) who extend credit to individuals to hypothecate such obligations to the Federal National Mortgage Association (trustee), a provision that the trustors pay certain of the trustee's expenses "and for these purposes may use any appropriated funds or other amounts available" to them was held to be an appropriation in a legislative bill and was ruled out as in violation of clause 4 [now clause 5] Rule XXI. 112 CONG. REC. 10893, 89th Cong. 2d Sess., May 18, 1966 [H.R. 14544, Participation Sales Act, 1966].

§ 3.18 Language in an amendment to a bill reported by the Committee on Banking and Currency repealing the public debt financing provisions of the Area Redevelopment Act fund, and, in lieu thereof, authorizing appropriations for a reconstituted fund, was held not to be an appropriation within the purview of clause 4 [now clause 5] Rule XXI. 109 CONG. REC. 10721, 88th Cong. 1st Sess., June 12, 1963 [H.R. 4996, Area Redevelopment Act amendments, 1963].

§ 3.19 An amendment establishing a user charge and making the revenues collected therefrom available without further appropriation is not in order to a bill reported by a committee not having the jurisdiction to report appropriations. 118 CONG. REC. 10749-51, 92d Cong. 2d Sess., Mar. 29, 1972 [H.R. 11896, to amend the Federal Water Pollution

Control Act]. *Note:* Points of order had been waived against appropriations contained in the committee amendment in the nature of a substitute, but not against amendments offered from the floor containing such provisions. Hence, the amendment was subject to a point of order under clause 4 [now clause 5] Rule XXI.

§ 3.20 Language in a section of a legislative bill amending an appropriation act to increase the amount of funds already appropriated for a specified purpose was ruled out as an appropriation in violation of Rule XXI clause 4 [now clause 5]. 120 CONG. REC. 9845, 9846, 93d Cong. 2d Sess., Apr. 4, 1974 [H.R. 12565, supplemental military procurement authorization, fiscal 1974]. In this instance, the Chairman indicated that where an appropriation act limited the availability of funds therein for military assistance to South Vietnam and Laos to a designated amount, a section of a bill reported from the Committee on Armed Services increasing both the authorization and appropriation limitations on those funds was ruled out when a point of order was conceded against that portion of the section increasing the appropriation.

§ 3.21 An amendment to a legislative bill waiving provisions in an appropriation act which limited the availability of funds appropriated therein for a specified purpose was held to increase the availability of appropriated funds and was ruled out in violation of Rule XXI clause 4 [now clause 5]. 120 CONG. REC. 9846, 9847, 93d Cong. 2d Sess., Apr. 4, 1974 [H.R. 12565, supplemental military procurement authorization, fiscal 1974], where an appropriation act prohibited the use of funds therein for the military enlistment of persons who have not graduated from high school above a certain percentage, an amendment to a bill reported from the Committee on Armed Services waiving that limitation was held to make previously appropriated funds available for a new purpose in violation of Rule XXI clause 4 [now clause 5].

§ 3.22 While it is not in order on a legislative bill to increase the availability of appropriated funds for a specified purpose by expressly waiving limitations imposed thereon in an appropriation act, a point of order will not lie against an amendment to a legislative bill which would permanently enact new policy but which would not directly increase the availability of funds already appropriated. 120 CONG. REC. 9847, 9848, 93d Cong. 2d Sess., Apr. 4, 1974 [H.R. 12565, supplemental military procurement authorization, fiscal 1974].

§ 3.23 Notwithstanding language in an appropriation act prohibiting the use of funds therein for the military enlistment of persons who have not graduated from high school above a certain percentage, an amendment to a bill reported from the Committee on Armed Services permanently prohibiting the denial of military enlistments to such persons was held in order as not directly increasing the availability of appropriated funds and not in violation of Rule XXI clause 4 [now clause 5]. 120 CONG. REC. 9847, 9848, 93d Cong. 2d Sess., Apr. 4, 1974 [H.R. 12565, supplemental military procurement authorization, fiscal 1974].

§ 3.24 An amendment to a legislative bill which provided for the transfer of existing federal funds into a new Treasury trust fund and for their immediate availability for a new purpose was held to constitute an appropriation in violation of Rule XXI clause 4 [now clause 5]. 120 CONG. REC. 20273-75, 93d Cong. 2d Sess., June 20, 1974 [H.R. 15361, the Housing and Urban Development Act of 1974], where to a bill reported from the Committee on Banking and Currency amending and extending several housing programs, an amendment establishing a National Housing Loan Fund for the Elderly and Handicapped, to be financed in part by funds transferred from existing revolving funds and to be availa-

ble without a subsequent appropriation, was ruled out on a point of order.

§ 3.25 A provision in a legislative bill exempting loan guarantees therein from statutory limitations on expenditures was held not to constitute an appropriation of funds from the Treasury and not in violation of Rule XXI clause 4 [now clause 5]. 120 CONG. REC. 23344, 93d Cong. 2d Sess., July 16, 1974 [H.R. 15560, emergency loans to livestock producers], where, in a committee amendment in the nature of a substitute authorizing emergency loans to livestock producers, a section exempting guarantee contracts under the amendment from budget totals and from statutory limitations imposed on expenditures, the amendment was held in order as not constituting an appropriation, where no question of germaneness was involved—a similar provision being contained in the original bill.

§ 3.26 An amendment expanding the definition of federal property to include U.S. Postal Service property under an educational assistance program subsidizing school districts where there is a federal "impact" was held to permit a new use of funds already appropriated and was ruled out in violation of Rule XXI clause 5. 122 CONG. REC. 13411, 94th Cong. 2d Sess., May 11, 1976 [H.R. 12835, the Vocational Education Act amendments].

§ 3.27 A provision in a legislative bill transferring unexpended balances of appropriations from an existing agency to a new agency created therein constitutes an appropriation in violation of Rule XXI clause 5. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979 [H.R. 3342]. In this instance, a section of a bill creating the Peace Corps within a proposed new agency or as an independent agency, and transferring unexpended appropriations for the Peace Corps pursuant to that transfer, was conceded to contain an appropriation in a legislative bill and was ruled out pursuant to Rule XXI clause 5.

§ 3.28 A provision originally contained in a Senate amendment and included in a conference report on an authorization bill, considered after the appropriation bill for the fiscal year in question had been enacted into law, directing that funds appropriated pursuant to the authorization be obligated and expended on a certain project not specifically funded by the appropriation law, constitutes at that time an appropriation on a legislative bill and cannot under Rule XX clause 2 be agreed to by House conferees. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 29, 1979 [H.R. 2676]. In this instance, a conference report containing a Senate amendment to a House legislative bill having been ruled out of order as constituting an appropriation, the manager of the conference report moved to recede and concur in the Senate amendment with an amendment merely encouraging, but not mandating, the use of funds already appropriated for a new purpose.

§ 3.29 Rule XXI clause 5, prohibiting an appropriation from being included in a legislative bill not reported from the Committee on Appropriations, or in an amendment thereto, applies to an amendment in the House to a Senate amendment to a House legislative bill. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [H.R. 5612].

§ 3.30 A provision in a legislative bill authorizing the use, without a subsequent appropriation, of funds directly appropriated by a previous statute for a particular purpose, for a new purpose, constitutes an appropriation prohibited by clause 5 of Rule XXI, and if in a Senate amendment included in a conference report violates clause 2 of Rule XX, prohibiting House conferees from agreeing to such a provision absent authority from the House. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [H.R. 5612].

§ 3.31 In one instance, the Chair sustained a point of order against a conference report on a

House bill with a Senate amendment on the grounds that the conferees had agreed to a provision of the Senate amendment constituting an appropriation on a legislative bill, in violation of clause 2 Rule XX, where the Senate provision not only authorized appropriations to pay judgments, but also required that where such judgments were not paid out of authorized and appropriated funds, payment be made directly out of the Treasury pursuant to a direct appropriation previously provided by law in 31 USC § 724(a). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [H.R. 5612].

§ 3.32 A motion to recede and concur in a Senate amendment containing an appropriation, with an amendment (consisting of the text of a conference report which had been ruled out of order as in violation of clause 2 Rule XX but modified to make the use of those funds "effective only to the extent and in such amounts as are provided in advance in appropriation Acts"), was held not to violate clause 5 of Rule XXI, as no longer containing an appropriation on a legislative bill. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [H.R. 5612].

§ 4. Contingent Fund of the House

§ 4.1 A resolution reported by the Committee on House Administration providing for an expenditure from the contingent fund is called up as privileged. 111 CONG. REC. 13799, 89th Cong. 1st Sess., June 16, 1965 [H. Res. 416, authorizing the employment of student congressional interns].

§ 4.2 A resolution reported by the Committee on House Administration, providing for payment from the contingent fund of additional compensation for certain positions created by House resolution, was called up as privileged. 116 CONG. REC. 27449-51, 91st Cong. 2d Sess., Aug. 5, 1970 [H. Res. 1117].

§ 4.3 The House agreed to a resolution authorizing the transfer of surplus 1960 contingent funds to liquidate 1962 contingent fund obligations of the House. 108 CONG. REC. 11314, 87th Cong. 2d Sess., June 21, 1962. See also 109 CONG. REC. 11462, 88th Cong. 1st Sess., June 25, 1963, for a resolution authorizing transfer of surplus 1961 contingent funds to liquidate 1963 contingent fund obligations of the House.

§ 4.4 A resolution not formally reported by the Committee on House Administration, providing for payment from the contingent fund of salaries of investigative personnel of standing and select committees for a three-month period (pending adoption of annual committee funding resolutions), was called up and agreed to by unanimous consent. 121 CONG. REC. 1160, 1161, 94th Cong. 1st Sess., Jan. 23, 1975 [H. Res. 84].

§ 4.5 To a legislative appropriation bill containing funds for the contingent fund of the House, an amendment denying the availability of any funds in the bill to pay Members' allowances which had been approved by the Committee on House Administration was held in order as a negative limitation which did not directly change the mechanism in law permitting final committee approval, without subsequent House action, of such allowances. 121 CONG. REC. 15695, 94th Cong. 1st Sess., May 21, 1975 [H.R. 6950]. *Note:* Authority for the Committee on House Administration to fix allowances without subsequent House approval, granted in House Resolution 457 (92d Cong.) and incorporated into permanent law by Public Law No. 92-184, was withdrawn on July 1, 1976, when the House approved House Resolution 1372, which was enacted as Public Law No. 94-440 (legislative branch appropriations, 1977). Public Law No. 94-440 requires subsequent House approval of House Administration Committee orders fixing allowances beyond the 94th Congress.

B. AUTHORIZATION OF APPROPRIATION

§ 5. In General

§ 5.1 Clause 2 Rule XXI contains provisions prohibiting the Committee on Appropriations from reporting appropriations not authorized "by law." However, these provisions have no application to bills which are not "general" appropriation bills. 119 CONG. REC. 12190, 12191, 93d Cong. 1st Sess., Apr. 12, 1973 [H.J. Res. 496, supplemental appropriations, fiscal 1973].

§ 5.2 In answer to a parliamentary inquiry, the Speaker affirmed the rule that appropriations unauthorized by law are not in order in a general appropriation bill. 109 CONG. REC. 24199, 88th Cong. 1st Sess., Dec. 11, 1963.

§ 5.3 *Note:* Clause 2 Rule XXI requires the enactment of authorizing legislation prior to, and not following, the consideration of an appropriation for that purpose. A bill is contrary to the intent of that rule if it would permit a portion of a lump sum—unauthorized at the time the bill was being considered—to subsequently become available without a further appropriation upon enactment of authorizing legislation. Delaying the availability of an appropriation pending enactment of an authorization does not protect the item of appropriation against a point of order under Rule XXI clause 2. 122 CONG. REC. 20551, 94th Cong. 2d Sess., June 25, 1976 [H.R. 14231]. In this instance, an amendment to a general appropriation bill not only increasing a figure therein but providing that a portion was to be available only on enactment of authorizing legislation was ruled out in violation of Rule XXI clause 2.

§ 5.4 A point of order against an item in a general appropriation bill was overruled when it became apparent that the authorizing legislation had been enacted into law between the time the appropriation bill was reported and the time it was considered in the House. 116 CONG. REC. 16164, 91st Cong. 2d Sess., May 19, 1970 [H.R. 17619, Department of Interior appropriation bill, fiscal 1971].

§ 5.5 A point of order will not lie against an amendment proposing to increase a lump sum appropriation for construction and rehabilitation of public works projects when language in the bill limits use of the lump sum appropriation to "projects . . . as authorized by law." 105 CONG. REC. 10061, 86th Cong. 1st Sess., June 5, 1959 [H.R. 7509].

§ 5.6 Language in an appropriation bill providing funds for the construction of public works and specifying that none of the funds appropriated should be used for projects not authorized by law "or which are authorized by a law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated" was held to limit expenditures to authorized projects and a point of order against the language as legislation was overruled. 106 CONG. REC. 10979, 86th Cong. 2d Sess., May 24, 1960 [H.R. 12326].

§ 5.7 The failure of Congress to enact into law separate legislation specifically authorizing appropriations for existing programs does not necessarily render appropriations for those programs subject to a point of order, where more general existing law authorizes appropriations for such programs. Thus, a paragraph in a general appropriation bill purportedly containing some funds not yet specifically authorized by separate legislation was held not to violate Rule XXI clause 2, where it was shown that all of the funds in the paragraph where authorized by more general provisions of law currently applicable to the programs in question. 124 CONG. REC. 16778, 95th Cong. 2d Sess., June 8, 1978 [H.R. 12929], where funds claimed to be available, *inter alia,*

to expand educational grants to middle-income students, but not specifically so earmarked, were held to be generally authorized by the Higher Education Act, although separate legislation modifying those grant programs had not yet been enacted into law.

But whether organic statutes or general grants of authority in law constitute sufficient authorization to support appropriations depends on whether the general laws applicable to the function or department in question contain provisions requiring specific and/or annual authorizations, sometimes called "sunset legislation." For example, by statute (Pub. L. No. 94-503, § 204) all appropriations for the Department of Justice and its related agencies and bureaus for fiscal 1979 and subsequent fiscal years must be specifically authorized for each fiscal year, and the creation of any subdivision in that Department or the authorization of any activity therein, absent language specifically authorizing appropriations for a fiscal year, is deemed insufficient authorization. 124 CONG. REC. 17623, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934]. A similar statute applicable to the State Department [22 USC § 2680(a)(1)] provides that no funds shall be available to the Department for obligation or expenditure unless the appropriation thereof has been authorized by law enacted after February 1972 [thus requiring specific subsequently enacted authorizations for both the direct operations of that Department and related functions delegated to it prior to that date, and not permitting appropriations to be authorized by the organic statute or other earlier laws]. Accordingly, in the 95th Congress, appropriations in a general appropriations bill for the Department of State, including salaries and expenses, expenses under the Foreign Services Buildings Act and related programs, no authorizations for such appropriations having been enacted for the fiscal year in question as specifically required by law, were conceded to be unauthorized and were ruled out in violation of Rule XXI clause 2. 124 CONG. REC. 17616, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934]. Similar statutes govern the availability of funds for the National Fire Prevention and Control Administration (124 CONG. REC. 17626, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934]), the National Bureau of Standards (124 CONG. REC. 17626, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934]), the Federal Trade Commission (124 CONG. REC. 17630, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934]), and in each such instance funds in a general appropriation bill were conceded to be unauthorized and were ruled out in violation of Rule XXI clause 2.

§ 6. Evidence; Burden of Proof

§ 6.1 The burden of proving the authorization for language carried in an appropriation bill falls on the proponents and managers of the bill; and where no authorization is cited to dispute a point of order that the language is legislation, the Chair sustains the point of order. 114 CONG. REC. 15357, 90th Cong. 2d Sess., May 28, 1968 [H.R. 17522]. See also 124 CONG. REC. 24252, 95th Cong. 2d Sess., Aug. 3, 1978 [H.R. 12931], where a paragraph in a general appropriation bill containing funds for entertainment expenses relating to several military education programs was ruled out as unauthorized by law in violation of Rule XXI clause 2, where the Committee on Appropriations was unable to cite specific statutory authority for that appropriation.

§ 6.2 The burden of proving that an item contained in a general appropriation bill is authorized by law is on the Committee on Appropriations, which must cite statutory authority for the appropriation. 119 CONG. REC. 19855, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619], where an appropriation for the Office of Consumer Affairs, established by executive order, was stricken from a general appropriation bill when the Appropriations Committee failed to cite statutory authority, other than for funds for personnel, in support of that item. See also

120 CONG. REC. 10614, 10615, 93d Cong. 2d Sess., Apr. 10, 1974 [H.R. 14013, supplemental appropriations, fiscal 1974], which states that the Committee on Appropriations assumes the burden of proving that items contained in a general appropriation bill are authorized by law. In that instance a lump-sum appropriation for the postal service was held to be authorized.

§ 6.3 Where language in a general appropriation bill is susceptible to more than one interpretation, it is incumbent upon the Committee on Appropriations to prove that an interpretation not in violation of Rule XXI clause 2 is the proper construction. 120 CONG. REC. 20612, 20613, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 28, 1980 [H.R. 7631].

§ 6.4 While the burden is on the Committee on Appropriations to cite authority in law to support funds in a general appropriation bill, where a statute is subject to conflicting interpretations and the committee relied upon a legal opinion of the Department of Justice in support of the authorization, the Chairman overruled a point of order under Rule XXI clause 2, and left to the Committee of the Whole the ultimate determination of the question through the amendment process. 120 CONG. REC. 33597-601, 93d Cong. 2d Sess., Oct. 2, 1974 [H.R. 16900, supplemental appropriations, fiscal 1975].

§ 6.5 The burden of proof is upon the proponent of an amendment to a general appropriation bill to show that the appropriation therein is authorized by law. 117 CONG. REC. 14471, 92d Cong. 1st Sess., May 11, 1971 [H.R. 8190, supplemental appropriations, fiscal 1971].

§ 6.6 Language in a general appropriation bill permitting funds in that paragraph to remain available until expended was held in order upon citation by the Committee on Appropriations of statutory authority therefor. 119 CONG. REC. 38845, 93d Cong. 1st Sess., Nov. 30, 1973 [H.R. 11576, supplemental appropriations, fiscal 1974].

§ 6.7 An amendment to a general appropriation bill providing that not less than a specific sum shall be used for a particular purpose was held to violate Rule XXI clause 2, where its proponent could not show that existing law mandated such an expenditure. 122 CONG. REC. 19297, 94th Cong. 2d Sess., June 18, 1976 [H.R. 14239].

§ 7. What Constitutes Authorization

§ 7.1 An item contained in a general appropriation bill must be authorized by law. Statutory authority for the appropriation must exist. Thus, an executive order does not constitute sufficient authorization "by law" absent proof of its derivation from a statute enacted by Congress authorizing the appropriation. 119 CONG. REC. 19855, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619].

§ 7.2 While an executive order creating a federal office cannot, standing alone, be considered authority in law for appropriations for that office, a reorganization plan which authorizes the creation of that office may be cited by the Committee on Appropriations to support such an appropriation. 120 CONG. REC. 20595, 20596, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472].

§ 7.3 A reorganization plan submitted by the President pursuant to 5 USC § 906 has the status of statutory law when it becomes effective and is sufficient authority to support an appropriation under Rule XXI clause 2. 120 CONG. REC. 20595, 20596, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472], where Reorganization Plan No. 1 of 1953 authorizing the Secretary of the Department of Health, Education, and Welfare to "establish central services

and activities common to the several agencies of the Department" was held to be sufficient authorization for appropriations for the Office of Consumer Affairs in that department.

§ 7.4 Language in an appropriation bill, challenged as being in violation of clause 2 Rule XXI, was held in order as having been authorized by legislation made permanent in a previous appropriation act. 110 CONG. REC. 11422, 88th Cong. 2d Sess., May 20, 1964 [H.R. 11202, agricultural appropriations, fiscal 1965].

§ 7.5 A point of order having been raised that a portion of a lump sum supplemental appropriation for the White House was not authorized by law, the chairman determined that the permanent law authorizing the President to appoint certain staff, as well as legislative provisions authorizing additional employment contained in an appropriation bill enacted for that fiscal year, constituted sufficient authorization within the purview of clause 2 Rule XXI. 119 CONG. REC. 38854, 38855, 93d Cong. 1st Sess., Nov. 30, 1973 [H.R. 11576].

§ 7.6 Where the law authorizing funds for the Postal Service required the calculation of the appropriation to be the difference between revenues received under certain rates, a lump-sum appropriation was held to be authorized as required by clause 2 Rule XXI upon assurance from the Committee on Appropriations that that amount was based upon estimates properly submitted pursuant to that law. 119 CONG. REC. 38851-53, 93d Cong. 1st Sess., Nov. 30, 1973 [H.R. 11576].

§ 7.7 Legislation authorizing the Administrator of the Federal Aviation Administration to develop and test improved aircraft, and legislation transferring and vesting those functions "including the development and construction of a civil supersonic aircraft" in the Secretary of Transportation, was held to authorize an appropriation for the construction of prototypes of the civil supersonic aircraft. 116 CONG. REC. 17310, 91st Cong. 2d Sess., May 28, 1970 [H.R. 17755].

§ 7.8 Since the law establishing the Joint Economic Committee [15 USC § 1024(e)] authorizes the appropriation of "such sums as may be necessary during each fiscal year", it is not in order in a general appropriation bill to make funds for that joint committee available beyond the fiscal year covered by the bill. 117 CONG. REC. 14472, 92d Cong. 1st Sess., May 11, 1971 [H.R. 8190].

§ 7.9 Although it is generally not in order in a general appropriation bill to require that funds therein shall be "available until expended" or beyond the fiscal year covered by the bill unless the authorizing law contains that provision, such language may be included where other existing law can be interpreted to permit that availability. 119 CONG. REC. 12781, 12782, 93d Cong. 1st Sess., Apr. 17, 1973 [H.R. 6691, legislative branch appropriations, fiscal 1974].

§ 7.10 While legislation contained in a general appropriation bill enacted into law for a fiscal year does not become permanent law capable of authorizing appropriations for subsequent fiscal years unless expressly stated therein, it may support a supplemental lump sum appropriation during the same fiscal year for the purposes stated in the enacted law. 119 CONG. REC. 38854, 38855, 93d Cong. 1st Sess., Nov. 30, 1973 [H.R. 11576, supplemental appropriations, fiscal 1974].

§ 7.11 Where a lump-sum appropriation item is prefaced by language limiting expenditure therefrom to projects or costs "authorized by or pursuant to law", a point of order will not lie against the total figure where the proponent of the point of order makes a general allegation that some portion thereof may be unauthorized by law and does not demonstrate that the total figure is above the amount actually authorized. 115 CONG. REC. 13267, 91st Cong. 1st Sess., May 21, 1969 [H.R. 11400, supple-

mental appropriation bill, 1969]; see also 106 CONG. REC. 7941, 86th Cong. 2d Sess., Apr. 12, 1960 [H.R. 11666], where a point of order was made against a paragraph of an appropriation bill on the ground that the lump-sum figure therein contained, according to the report, funds for one organization in excess of the authorization. Although the point of order was conceded, the language of the bill specified that appropriations in the paragraph were available only for "expenses authorized by the pertinent acts" providing for U.S. participation in certain organizations, and under the precedents, the quoted language would limit the amount which could be used to the amount actually authorized, so that the point of order would not lie.

§ 7.12 Where the total amount of an annual appropriation for an agency is not limited by a statutory ceiling, an amendment to a general appropriation bill increasing the lump-sum amount therein for that agency is in order so long as the additional funds are not earmarked for an unauthorized purpose. 120 CONG. REC. 24996, 24997, 93d Cong. 2d Sess., July 24, 1974 [H.R. 16027], where, to a paragraph of a general appropriation bill containing funds for the Bureau of Mines "as authorized by law," an amendment merely increasing the lump-sum amounts in the paragraph and not specifying any unauthorized purposes for which the increased amounts would be used was held in order as not constituting an unauthorized item of appropriation.

§ 7.13 An act providing that notwithstanding any other law, "no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation hereafter enacted by the Congress," was construed to have voided all previous authorizations for appropriations to that agency; hence an appropriation was held not to be in order since not authorized by law enacted after the repeal. 105 CONG. REC. 12125, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978, supplemental appropriation Act, 1960].

§ 7.14 A law giving the Secretary of State general authority "to provide for participation in international activities which arise from time to time", was held to be sufficient authorization for a specific appropriation for a U.S. contribution to an International Secretariat on Middle Level Manpower. 109 CONG. REC. 6157, 88th Cong. 1st Sess., Apr. 10, 1963 [H.R. 5517, supplemental appropriations, fiscal 1963].

§ 7.15 In a bill appropriating funds for the Mutual Security Act program, a provision earmarking a part of the funds of the "special assistance" appropriation for the purchase of foreign currencies to be used for the construction of a children's hospital in Poland was held to be authorized by 22 USC § 1920(c) and in order. 106 CONG. REC. 13132, 86th Cong. 2d Sess., June 17, 1960 [H.R. 12619].

§ 7.16 An amendment to a general appropriation bill, containing funds for payment of claims to reimburse fishermen for costs incurred for vessels seized by the Government of Equador, was held to be authorized by law under the Fishermen's Protective Act of 1967 [22 USC §§ 1971-77]. 117 CONG. REC. 22439-42, 92d Cong. 1st Sess., June 28, 1971 [H.R. 9271].

§ 7.17 Funds in a general appropriation bill for transitional office and staff expenses of former President Nixon, who had resigned from office prior to the expiration of the four-year term to which elected, were held to be authorized by existing law [the Presidential Transition Act of 1963 (3 USC § 102 note)] which authorized the Administrator of the General Services Administration to provide transitional expenses to each former President for not to exceed six months from the date of expiration of his term of office as President, where: (1) the definition of a "former President" contained in another statute having a

similar purpose [the Former Presidents Act (3 USC § 102 note)] included one who had resigned from office—was considered applicable to the same term in the authorizing statute; and (2) the "term of office," while not defined in the authorizing law, was construed to end prior to the period for which elected either by resignation, death, or impeachment and conviction. 120 CONG. REC. 33597-601, 93d Cong. 2d Sess., Oct. 2, 1974 [H.R. 16900, supplemental appropriations, fiscal 1975].

§ 7.18 Where a statute authorizing an appropriation is permanent law but does not, pursuant to another law, become effective for a designated period—i.e., the administering agency could not during that period expend the funds authorized therein—a general appropriation bill may nevertheless contain funds for that purpose prior to the expiration of the prescribed period if the availability of those funds is delayed until termination of the period and is within the fiscal year covered by the bill. 120 CONG. REC. 33611, 33612, 93d Cong. 2d Sess., Oct. 2, 1974 [H.R. 16900]. In this instance, the funds for allowances and office staff for former President Nixon to be made available as authorized by the Former Presidents Act of 1958 (3 USC § 102 note), which were contained in a general appropriation bill being considered prior to expiration of six months from the date of his resignation, were held to be authorized by that statute despite another law which provided that the authority for the administering agency to expend those funds would not "become effective with respect to a former President until 6 months after the expiration of his term of office," where the report of the Committee on Appropriations indicated that the funds were not to be made available until the expiration of the six-month period.

§ 7.19 Where existing law (39 USC § 2004) authorized appropriations to the U.S. Postal Service of "such sums as are necessary to insure a sound financial transition for the postal service and a rate policy consistent with chapter 36 of this title," a lump-sum appropriation for the postal service was held to be authorized as required by Rule XXI clause 2, because a temporary postal rate increase [to insure that the postal rate policy prescribed in § 3622(b) of title 39—that each class of mail bear all direct and indirect costs thereof] had been disapproved by the Cost of Living Council, and upon a showing that the financial transition period contemplated by the authorizing statute was still in effect. 120 CONG. REC. 10614, 10615, 93d Cong. 2d Sess., Apr. 10, 1974 [H.R. 14013].

§ 7.20 Pursuant to Rule XXI clause 2 and 36 USC § 673, commissions and councils must have been established pursuant to law—and not merely by executive order—prior to the expenditure of federal funds therefor. 120 CONG. REC. 21036, 21037, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544].

§ 7.21 Funds in a general appropriation bill for expenditures for official purposes by the Commissioner and Chairman of the District of Columbia Council were held to be authorized by law (Pub. L. No. 93-140 § 26). 120 CONG. REC. 21747, 93d Cong. 2d Sess., June 28, 1974 [H.R. 15581].

§ 7.22 Funds for expenditures for official purposes by the Superintendent of Schools, the President of Federal City College, and the President of the Washington Technical Institute contained in a general appropriation bill were held to be authorized by a law permitting those officials to make such expenditures "within the limits of specified annual appropriations." 120 CONG. REC. 21747, 93d Cong. 2d Sess., June 28, 1974 [H.R. 15581].

§ 7.23 A bill passed by both Houses but not signed by the President nor returned to the originating House was held insufficient authorization to support an appropriation for programs relating to the family practice of medicine when the proponent of an amend-

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ment to fund a program under that bill failed to cite its enactment. 117 CONG. REC. 14471, 92d Cong. 1st Sess., May 11, 1971 [H.R. 8190, supplemental appropriations, fiscal 1971]. *Note:* In subsequent litigation testing the constitutionality of the President's asserted "pocket veto" of the bill, the U.S. Court of Appeals for the District of Columbia in Kennedy v Sampson, 511 F2d 430 (1974) affirmed the lower court's decision in Kennedy v Sampson (D.D.C.), 364 F Supp 1075 (1973) that the "pocket veto" during the 1970 congressional Christmas recess was inapplicable and that the bill in question had become law without the President's signature. The appellate process not having been completed and that bill not having been formally "enacted" into law, the Chair would in any event decline to rule upon the constitutionality of the pocket veto and would require the proponent of the appropriation to cite the statutory enactment of the authorization.

§ 8. Appropriations for Unauthorized Purposes

§ 8.1 It is not in order in a general appropriation bill to include any appropriations for purposes not previously authorized by law. Thus, an appropriation for a project or an activity not authorized by law is not in order on a general appropriation bill. Such an appropriation is in violation of Rule XXI clause 2, and may be ruled out on a point of order. 106 CONG. REC. 8232, 86th Cong. 2d Sess., Apr. 19, 1960 [H.R. 11776], where an appropriation for NASA for scientific consultation and emergency or extraordinary expense was ruled out on a point of order; 113 CONG. REC. 14350, 90th Cong. 1st Sess., June 6, 1967 [H.R. 10509], where an appropriation for the food stamp program, "to be available only upon the enactment of authorizing legislation" was ruled out on a point of order; 114 CONG. REC. 15354, 90th Cong. 2d Sess., May 28, 1968 [H.R. 17522], where an appropriation for maritime ship construction, operation and research not yet authorized by law for the fiscal year of the appropriation, was conceded to be unauthorized and was ruled out as in violation of Rule XXI clause 2.

§ 8.2 An appropriation in excess of the specific amount authorized by law is in violation of Rule XXI clause 2. 121 CONG. REC. 30981, 30982, 94th Cong. 1st Sess., Sept. 30, 1975 [H.R. 9861, defense appropriations, fiscal 1975], where existing law (10 USC § 4308) limited annual authorizations of appropriations for incidental expenses of the National Board for the Promotion of Rifle Practice to $7,500, an appropriation for $10,000 was held to be unauthorized and was ruled out on a point of order.

§ 8.3 An appropriation contained in a general appropriation bill for foreign military credit sales was conceded to be unauthorized and was ruled out on a point of order. 124 CONG. REC. 21840, 95th Cong. 2d Sess., July 20, 1978 [H.R. 13467].

§ 8.4 To an appropriation bill containing funds for foreign economic assistance which were permitted to remain in the bill by a resolution waiving points of order, an amendment appropriating funds for international drug control assistance was conceded to be unauthorized by law and was ruled out in violation of clause 2 Rule XXI. 117 CONG. REC. 45487, 92d Cong. 1st Sess., Dec. 8, 1971 [H.R. 12067].

§ 8.5 An item in a general appropriation bill for the District of Columbia providing a cash gratuity not to exceed $75 for each released prisoner was conceded to be unauthorized by law and was ruled out in violation of clause 2 Rule XXI. 118 CONG. REC. 19900, 92d Cong. 2d Sess., June 7, 1972 [H.R. 15259].

§ 8.6 An appropriation for salaries and expenses of the Commission on Civil Rights above the amount authorized by existing law for that purpose was conceded to be in viola-

tion of clause 2 Rule XXI and was ruled out on a point of order. 117 CONG. REC. 21902, 92d Cong. 1st Sess., June 24, 1971 [H.R. 9272].

§ 8.7 An appropriation for a program not yet authorized by law for the fiscal year of the appropriation, including language permitting transfer of those funds to a revolving fund not contained in the bill, was conceded to be in violation of clause 2 Rule XXI. 117 CONG. REC. 21901, 92d Cong. 1st Sess., June 24, 1971 [H.R. 9272, Departments of State, Justice, and Commerce appropriations, fiscal 1972].

§ 8.8 Appropriations for state marine schools as originally authorized by the Maritime Academy Act of 1958 require annual authorization; and where the authorization has not become law, appropriations for that item are subject to a point of order. 117 CONG. REC. 21902, 92d Cong. 1st Sess., June 24, 1971 [H.R. 9272].

§ 8.9 An appropriation for liquidation of contract authority to pay costs of operating differential subsidies granted by the Maritime Administration, not yet authorized by law for the fiscal year of the appropriation, was conceded to be unauthorized and was ruled out as in violation of clause 2 Rule XXI. 117 CONG. REC. 21901, 92d Cong. 1st Sess., June 24, 1971 [H.R. 9272].

§ 8.10 To a supplemental appropriation bill, an amendment providing funds for military procurement including aircraft, missiles, and naval vessels, was conceded to be unauthorized by law and was ruled out as in violation of clause 2 Rule XXI. 112 CONG. REC. 27417, 89th Cong. 2d Sess., Oct. 18, 1966 [H.R. 18381, supplemental appropriations, fiscal 1967].

§ 8.11 An appropriation for the American Revolution Bicentennial Commission, not yet authorized by law for the fiscal year of the appropriation, was conceded to be unauthorized and was ruled out as in violation of clause 2 Rule XXI. 116 CONG. REC. 16165, 91st Cong. 2d Sess., May 19, 1970 [H.R. 17619].

§ 8.12 Where the bill authorizing appropriations for the Peace Corps had not yet been enacted into law, an appropriation for that program was conceded to be subject to a point of order. 116 CONG. REC. 18409, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867]. See also 124 CONG. REC. 21840, 95th Cong. 2d Sess., July 20, 1978 [H.R. 13467], where an appropriation contained in a general appropriation bill for expenses of the Peace Corps was conceded to be unauthorized and was ruled out on a point of order.

§ 8.13 A paragraph in a general appropriation bill providing funds under the Economic Opportunity Act and making those funds available for several stated purposes, including "purchase of real property for training centers", was ruled out on a point of order when it was conceded that there was no authority in law for such purchases. 116 CONG. REC. 25634, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515].

§ 8.14 To a general appropriation bill including funds for the Department of Justice, an amendment providing an appropriation for law enforcement activities was conceded to be unauthorized by law (the authorizing bill not yet having passed the Senate) and was ruled out as in violation of clause 2 Rule XXI. 112 CONG. REC. 24972, 89th Cong. 2d Sess., Oct. 4, 1966 [H.R. 18119].

§ 8.15 Appropriations for certain federal office buildings in the District of Columbia were ruled out as unauthorized where not approved by the Public Works Committees of the House and Senate as required by the Public Buildings Act of 1959 [73 Stat. 479]. 106 CONG. REC. 8230, 86th Cong. 2d Sess., Apr. 19, 1960 [H.R. 11776].

§ 8.16 An item in a general appropriation bill providing an allowance of $1,500 payable to

the attending physician of the Capitol was conceded to be without authorization and was stricken from the bill on a point of order. 106 CONG. REC. 10447, 86th Cong. 2d Sess., May 17, 1960 [H.R. 12232, making appropriations for the legislative branch, fiscal 1961].

§ 8.17 A section of a general appropriation bill amending an appropriation act to increase above the authorized limit the availability of funds already appropriated for a specified purpose was ruled out as an appropriation unauthorized by law (in violation of Rule XXI clause 2), and as a reappropriation of unexpended balances [in violation of Rule XXI clause 5 (now clause 6)]. 120 CONG. REC. 10594, 93d Cong. 2d Sess., Apr. 10, 1974 [H.R. 14013, supplemental appropriations, fiscal 1974].

§ 8.18 Where existing law (both the authorizing statute and an appropriation act) limited the availability of funds appropriated for a fiscal year for military assistance to South Vietnam and Laos to a designated amount, a section in a general appropriation bill increasing the appropriation limitation for that fiscal year above the authorized limit was ruled out as in violation of Rule XXI clause 2 and clause 5 [now clause 6]. 120 CONG. REC. 10594, 93d Cong. 2d Sess., Apr. 10, 1974 [H.R. 14013, supplemental appropriations, fiscal 1974].

§ 8.19 An amendment to a general appropriation bill appropriating funds for the immediate acquisition of domestic meat and poultry to be distributed consistently with provisions of law relating to distribution of other foods was ruled out in violation of Rule XXI clause 2, where the proponent failed to cite authorization for the appropriation. 120 CONG. REC. 20620, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472].

§ 8.20 Paragraphs in a general appropriation bill containing funds for Coast Guard acquisitions, construction, research, development, and evaluation, not having been authorized by law for the fiscal year of the appropriation, were conceded to be unauthorized and were ruled out in violation of Rule XXI clause 2. 123 CONG. REC. 17945, 17946, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7557].

§ 8.21 A provision in a general appropriation bill making appropriations for the International Trade Commission was conceded to be unauthorized and was ruled out in violation of Rule XXI clause 2. 123 CONG. REC. 18575, 95th Cong. 1st Sess., June 13, 1977 [H.R. 7556].

§ 8.22 A lump-sum amount for the Civil Service Commission contained in a general appropriation bill was conceded to be in violation of Rule XXI clause 2 where it was shown that a portion of that amount was intended to fund the President's Commission on Personnel Interchange—a commission established solely by executive order and not created by law. 120 CONG. REC. 21036, 21037, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544].

§ 8.23 A section of a general appropriation bill authorizing the Secretary of Labor and the Secretary of Health, Education, and Welfare to use funds in the bill for official reception and representation expenses was conceded to be unauthorized and was ruled out in violation of Rule XXI clause 2. 120 CONG. REC. 21686, 21687, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580]. See also 120 CONG. REC. 21028, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544], relating to such expenses for the office of the Secretary of the Treasury; 120 CONG. REC. 21037, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544], the Civil Service Commission; 120 CONG. REC. 21684, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580], the Federal Mediation and Conciliation Service.

§ 8.24 Funds in a general appropriation bill for payments under the Farmer-to-Consumer Direct Marketing Act of 1976 (Pub. L. No. 94-463) were conceded to be unauthorized by law for the fiscal year in question and were ruled

out in violation of Rule XXI clause 2. 124 CONG. REC. 18549, 95th Cong. 2d Sess., June 22, 1978 [H.R. 13125].

§ 8.25 A phrase in a general appropriations bill appropriating funds for entertainment allowances for the Overseas Private Investment Corporation was conceded to be unauthorized and was ruled out on a point of order. Likewise, a section of a general appropriation bill providing funds (not to exceed a certain amount) for entertainment expenses of the Agency for International Development was conceded to be unauthorized and was ruled out on a point of order. For the same reason, the Chair ruled out a paragraph in the bill providing funds (not to exceed a certain amount) for official residence expenses for the agency. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 5, 1979 [H.R. 4473]. *Note:* It was suggested that the language was only a limitation and therefore not subject to a point of order; however the language was also authority to spend up to the limitation on activities not authorized by law either in annual authorizations or in the organic statutes.

C. LIMITATIONS ON USE OF FUNDS

§ 9. In General; Limitations as to Amount of Funds

§ 9.1 The doctrine permitting limitations on a general appropriation bill has emerged over the years from rulings of the Chairmen of the Committee of the Whole. To be in order, however, the limitation must apply to a specific purpose, or object, or amount of appropriation. If a proposed limitation goes beyond the traditionally permissible objectives of a limitation, as for example restricting discretion in the timing of the expenditure of funds rather than restricting their use for a specific object or purpose, the Chair may rule that the amendment constitutes legislation in the absence of a convincing argument by the proponent that the amendment does not change existing law. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 28, 1980 H.R. 7631. For the rule barring legislation on appropriation bills, see Ch. 26, infra.

§ 9.2 A negative restriction on the use of funds above a certain amount in an appropriation bill is in order as a limitation. Where existing law authorized an appropriation of $600 million for the fiscal year and provided that of the amount actually appropriated, allotments to the various states should be computed by a formula, a provision in the appropriation bill, specifying that none of the funds used therein should be available for making allotments on a basis in excess of $500 million was held in order as a limitation. 115 CONG. REC. 21471, 91st Cong. 1st Sess., July 30, 1969 [H.R. 13111].

§ 9.3 To qualify as a "limitation," the restrictive language must apply to the appropriations carried in the bill and not to all funds which may have been provided under the authorizing legislation or to the provisions of the authorization itself. 116 CONG. REC. 18404, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867, foreign assistance appropriations, fiscal 1971].

§ 9.4 To qualify as a limitation, restrictive language in a general appropriation bill must apply solely to the funds carried in the bill and not to all funds which might otherwise be available for that purpose. 118 CONG. REC. 14456, 92d Cong. 2d Sess., Apr. 26, 1972 [H.R. 14582], where a paragraph in an appropriation bill prohibiting the use of any funds available for Federal Home Loan Bank Board expenses in relocating a district bank away from Greensboro, North Carolina, was held to apply to funds not carried in the bill and was ruled out as legislation in violation of clause 2 Rule XXI. See also 125 CONG. REC. p. .....,

96th Cong. 1st Sess., July 16, 1979 [H.R. 4393], indicating that the restrictive language must apply solely to the funds carried in the bill and not to all funds which might be available for that purpose in the bill or in any other act.

§ 9.5 An amendment denying use of funds for purposes otherwise authorized by law may be in order as a limitation. 110 CONG. REC. 11391, 88th Cong. 2d Sess., May 19, 1967 [H.R. 11202, agriculture appropriations, fiscal 1965], where an amendment providing that no part of the funds could be used for the dissemination of market information over government-owned wires serving privately-owned newspapers, radio, or television stations, was held to be a proper limitation and in order.

§ 9.6 An appropriation may be withheld from a designated highway project by a negative limitation on the use of funds in a general appropriation bill, although contracts may be left unsatisfied thereby. 121 CONG. REC. 22007, 94th Cong. 1st Sess., July 10, 1975 [H.R. 8365, Department of Transportation appropriations, fiscal 1976].

§ 9.7 An exception to a valid limitation in a general appropriation bill is in order, providing the exception does not add language legislative in effect. Thus, an amendment inserting "Except as required by the Constitution" in provisions in a general appropriation bill prohibitng the use of funds therein to force a school district to take action involving the busing of students, was held in order as providing an exception from valid limitations in the bill. 116 CONG. REC. 4019, 91st Cong. 2d Sess., Feb. 19, 1970 [H.R. 15931].

§ 9.8 An exception from a limitation on a general appropriation bill is not in order if it includes legislation. Thus, to an amendment prohibiting the use of funds in a general appropriation bill for the support of combat activities in Cambodia by U.S. forces, an amendment adding an exception delaying the effect of that limitation until either certain diplomatic negotiations had been held and reported to Congress or the reasons for not conducting such negotiations had been reported, was held to impose additional duties on executive officials and was ruled out in violation of clause 2 Rule XXI. 119 CONG. REC. 15318, 15319, 93d Cong. 1st Sess., May 10, 1973 [H.R. 7447].

§ 9.9 A limitation on the use of funds in a general appropriation bill, or an exception therefrom, may not be accompanied by language stating a motive or purpose in carrying out the limitation or exception. 124 CONG. REC. 24970, 95th Cong. 2d Sess., Aug. 8, 1978 [H.R. 13635]. But an exception from a valid limitation may be included in an amendment to an appropriation bill so long as it does not contain provisions which are legislative in effect. 118 CONG. REC. 23378, 92d Cong. 2d Sess., June 29, 1972 [H.R. 15690]. Thus, it has been ruled that an exception to such a limitation is in order if it does not impose new duties or determinations on the executive branch. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 13, 1979 [H.R. 4393]. And where a general appropriation bill was amended by a new section denying funds for regulations to require restraint systems to motor vehicles, an amendment providing that nothing in said section shall be construed to prohibit (1) use of funds for research and development and (2) court actions in relation to said systems, was held in order as an exception from a limitation on the use of funds, which did not impose new duties or mandate expenditures discretionary under existing law. 124 CONG. REC. 17200, 95th Cong. 2d Sess., June 12, 1978 [H.R. 12933]. As to the general rule against the inclusion of legislation in an appropriation bill, see Ch. 26, § 1, infra.

§ 9.10 While a limitation may not involve a permanent change of existing law, the allegation that it may result in a change of administrative policy would not itself render it subject to a point of order. 106 CONG. REC. 10053,

86th Cong. 2d Sess., May 11, 1960 [H.R. 12117], where language in an appropriation bill providing that none of the funds therein shall be used to pay any employee of the Department of Agriculture who serves as a member of the Board of Directors or as an officer of the Commodity Credit Corporation was held to be a limitation and in order.

§ 9.11 An amendment to a general appropriation bill restricting the availability for expenditure of all funds therein to the aggregate level provided in the President's budget for that fiscal year for the agencies covered in the bill was held to constitute a valid limitation on the total amount covered by the bill. 118 CONG. REC. 21136, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417].

§ 9.12 While it is not in order in a general appropriation bill to provide that the allocation of all available funds shall be made in a manner contrary to a legislative formula prescribing ratable reductions of certain grants, language which restricts the use of funds in the bill to a certain maximum level and which does not expressly impose new burdens on officials administering the funds is in order as a limitation. 118 CONG. REC. 21104, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417].

§ 9.13 When the authorizing law provided that "the aggregate amount of . . . contracts to make . . . payments shall not exceed amounts approved in appropriation acts," language in a general appropriation bill providing that "payments in any fiscal year . . . required by all contracts . . . shall not exceed $6 million" was held to be a proper limitation and not subject to a point of order. 111 CONG. REC. 26994, 89th Cong. 1st Sess., Oct. 14, 1965 [H.R. 11588].

§ 9.14 As long as a limitation on the use of funds in a general appropriation bill restricts the expenditure of federal funds carried in the bill without changing existing law, the limitation is in order, even if those federal funds are under the program in question commingled with nonfederal funds which would have to be accounted for separately in carrying out the limitation. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 20, 1980 [H.R. 7593].

§ 10. Limitations Affecting Executive Duties or Discretion

§ 10.1 While the House may, by way of a limitation, restrict the use of funds in an appropriation bill, it may not, under the guise of a limitation, impose additional new burdens and duties on an executive officer. 115 CONG. REC. 21631-33, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111], involving a restriction on the use of funds in the bill for students who have engaged in certain described conduct.

§ 10.2 While it is not in order by way of a limitation to impose additional duties on an executive officer, it is permissible to make the payment of funds contingent upon the performance of certain obligations by private citizens or other persons not in the government's employ. 114 CONG. REC. 16712, 90th Cong. 2d Sess., June 11, 1968 [H.R. 17734]. In 1977, an amendment to a general appropriation bill prohibiting the use of funds in the bill to perform abortions, except where a physician has certified the abortion is necessary to save the life of the mother, was ruled out as legislation since some of the physicians required to make such certification would be federal officials not required under existing law to make such determinations and judgments. 123 CONG. REC. 19698, 19699, 95th Cong. 1st Sess., June 17, 1977 [H.R. 7555]. In 1980, an amendment to a general appropriation bill denying the use of funds therein to pay for an abortion, or administrative expenses in connection with any federal employees health benefits plan which provides any benefits or coverage for certain abortions, was held not to constitute legisla-

tion, since the amendment did not directly interfere with executive discretion (in contracting to establish such plans); it is permissible by limitation to negatively deny the availability of funds although discretionary authority may be indirectly curtailed and contracts may be left unsatisfied. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 20, 1980 [H.R. 7593].

§ 10.3 A limitation on a general appropriation bill must be in effect a negative prohibition on the use of funds, and not an affirmative direction to an executive officer. 106 CONG. REC. 9641, 86th Cong. 2d Sess., May 5, 1960 [H.R. 11998], where an amendment providing that none of the funds appropriated in the bill shall be used to pay any amount due under a contract which was awarded to the higher of two bidders because of a certain Defense Department policy was held to be a limitation and in order.

§ 10.4 Where the manifest intent of a proposed amendment is to impose a limitation on the use of funds appropriated in the bill, the fact that the administration of the limitation will impose certain incidental but additional burdens on executive officers does not destroy the character of the limitation. 105 CONG. REC. 9741, 86th Cong. 1st Sess., June 3, 1959 [H.R. 7454], where an amendment providing that none of the funds appropriated in this bill may be used to enter into contracts with any concern having on its payroll a retired or inactive military officer was held to be a limitation and in order; 106 CONG. REC. 9624, 9627, 86th Cong. 2d Sess., May 5, 1960 [H.R. 11998], where an amendment providing that none of the funds appropriated in the bill may be used to enter into certain research or development contracts was held to be a limitation and in order; 106 CONG. REC. 9632, 9634-36, 86th Cong. 2d Sess., May 5, 1960 [H.R. 11998], where an amendment providing that none of the funds appropriated in the bill could be used to enter into contracts with any concern having on its payroll a retired military officer (in a position involving selling to the Department of Defense) was held to be a limitation and in order.

§ 10.5 Where the clear intent of a proposed amendment is to impose a limitation on the use of funds appropriated in the bill, the fact that certain incidental but additional burdens on the executive branch [such as making an appraisal of land values] might be imposed by the requirements of the amendment does not destroy the character of the limitation. 111 CONG. REC. 11656, 89th Cong. 1st Sess., May 26, 1965 [H.R. 8370] where an amendment limiting any payments to feed grain producers to 20 percent of the fair market value of acreage diverted under the Soil Conservation and Domestic Allotment Act, was held a proper limitation and in order.

§ 10.6 An amendment to a general appropriation bill which is strictly limited to funds appropriated in the bill, and which is negative and restrictive in character and prohibits certain uses of the funds, is in order as a limitation even though its imposition will change the present distribution of funds and require incidental duties on the part of those administering the funds. 115 CONG. REC. 13757-59, 91st Cong. 1st Sess., May 26, 1969 [H.R. 11612].

§ 10.7 It is not in order in an appropriation bill to insert by way of amendment a proposition which places additional duties on an executive officer; but the mere requirement that the executive officer be the recipient of information is not considered as imposing upon him any additional burdens and is in order. 114 CONG. REC. 16712, 90th Cong. 2d Sess., June 11, 1968 [H.R. 17734]. On the other hand, an amendment to a general appropriation bill imposing new responsibilities on federal officials beyond merely being the recipients of information is legislation in violation of Rule XXI clause 2. 123 CONG. REC. 19699, 19700, 95th Cong. 1st Sess., June 17, 1977 [H.R. 7555]. See also Ch. 26 § 11, infra.

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§ 10.8 An amendment to a general appropriation bill which is negative in character and which prohibits, during the fiscal year covered by the bill, certain uses of the funds therein to carry out a program whose duration extends beyond that fiscal year, is in order as a limitation, even though its imposition would require incidental duties on the part of those administering the funds. 116 CONG. REC. 18997, 91st Cong. 2d Sess., June 9, 1970 [H.R. 17923, Department of Agriculture appropriation bill, fiscal 1971]; 117 CONG. REC. 21634-36, 92d Cong. 1st Sess., June 23, 1971 [H.R. 9270, Agriculture-Environmental and Consumer Protection appropriations, fiscal 1972].

§ 10.9 While it is not in order in an appropriation bill, under the guise of a limitation, to impose additional burdens and duties on an executive of the federal government, amendments requiring the recipients of funds carried in the bill to be in compliance with existing law have been permitted, on the theory that the concerned federal officials are already under an obligation to oversee the enforcement of existing law and are thus burdened by no additional duties by the amendment. 115 CONG. REC. 21633, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111]. The fact that a limitation on the use of funds in a general appropriation bill will impose certain incidental burdens on executive officials will not destroy the character of the limitation so long as those duties—such as statistical comparisons and findings of residence and employment status—are already mandated by law. 122 CONG. REC. 27739, 94th Cong. 2d Sess., Aug. 25, 1976 [H.R. 15194]. In this instance, where existing law authorizing public works employment programs required a federal official to consider the severity and duration of unemployment in project areas and to make grants to local governments to be administered for the direct benefit and employment of unemployed residents of the affected community, language in a general appropriation bill prohibiting the use of funds therein where less than a certain percentage of the prospective employees had resided in the area and had been unemployed for a stated length of time was held in order as a limitation which did not impose upon federal officials any substantially new duties not already required by existing law.

§ 10.10 An amendment to a general appropriation bill prohibiting the use of Interstate Highway System funds in the bill by any state which permits the interstate system to be used by vehicles in excess of certain sizes and weights but not interfering with contractual obligations entered into prior to enactment was held in order as a negative limitation on the use of funds in the bill which did not impose new duties on federal officials (who were already under an obligation to determine vehicle weights and widths in each state) and which did not directly change any allocation formula in existing law. 121 CONG. REC. 22006, 22007, 94th Cong. 1st Sess., July 10, 1975 [H.R. 8365].

§ 10.11 While all limitations on funds on appropriation bills require federal officials to construe the language of that law in administering those funds, that duty of statutory construction, absent a further imposition of an affirmative direction not required by law, does not destroy the validity of the limitation. 120 CONG. REC. 21687-94, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580], where an amendment restricting the use of funds in an appropriation bill for abortions or abortion referral services, abortifacient drugs or devices, the promotion or encouragement of abortion, etc., was held to be a negative limitation on funds in the bill imposing no new duties on federal officials other than to construe the language of the limitation in administering the funds.

§ 10.12 To a paragraph of a general appropriation bill containing funds for the White House Office, an amendment prohibiting the obligation or expenditure of that portion of those funds equal to the total pay of executive

branch officials detailed to the White House was held to constitute a limitation on the use of funds in the bill imposing only the minimal duty of determining the amount to be withheld. 121 CONG. REC. 23235, 94th Cong. 1st Sess., July 17, 1975 [H.R. 8597].

§ 10.13 An amendment prohibiting the payment of expenses from funds in an appropriation bill, and containing language descriptive of the persons to whom the restriction applied, was held in order as a limitation on the use of funds in that bill which did not directly impose affirmative duties upon executive officials. 120 CONG. REC. 21046, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544, Treasury, Postal Service, and executive office appropriations, fiscal 1975], where an amendment providing that no funds shall be expended for persons during periods of their refusal to comply with valid congressional subpenas was held in order as a valid limitation which did not directly require executive officials to make determinations as to the validity of those subpenas.

§ 10.14 It is not in order on a general appropriation bill under the guise of a limitation to affirmatively interfere with executive discretion by coupling a restriction on the payment of funds for salaries with a positive direction to perform certain duties as a condition for their receipt; however, a negative prohibition which is merely descriptive of employment activities not mandated by law which may not be undertaken if those officials are to be compensated by funds in the bill is in order as a limitation. 120 CONG. REC. 20607, 20608, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]; 120 CONG. REC. 34713, 34714, 93d Cong. 2d Sess., Oct. 9, 1974 [H.R. 16901, agriculture, environment, and consumer appropriations, fiscal 1975].

§ 10.15 A paragraph of a general appropriation bill prohibiting the payment of funds therein for salaries of Federal Trade Commission personnel who use, publish, or permit access to certain information by designated methods was held to constitute a proper limitation—merely descriptive of discretionary employment activities which could not be compensated by funds in the bill—and which did not include affirmative directions to perform new duties and did not directly interfere with the performance of a function required by law. 120 CONG. REC. 20607, 20608, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]; 120 CONG. REC. 34713, 34714, 93d Cong. 2d Sess., Oct. 9, 1974 [H.R. 16901].

§ 10.16 It is in order on a general appropriation bill to deny the use of funds to carry out an existing regulation, and the fact that the regulation for which funds are denied may have been promulgated pursuant to court order and pursuant to constitutional provisions is an argument on the merits of the amendment and does not render it legislative in nature. It has been held that an amendment to a general appropriation bill denying the use of funds therein for the Internal Revenue Service to carry out certain tax procedures did not impose new duties or determinations on the executive branch and did not consitute legislation. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 19, 1980 [H.R. 7583]. To a paragraph of a general appropriation bill containing funds for expenses of the Internal Revenue Service, an amendment prohibiting the use of any funds in the bill for financing revenue rulings, letters, or advice not made available to the general public was held in order as a negative limitation which did not affirmatively impose new duties on that agency. 120 CONG. REC. 21029, 21030, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544]. In a similar instance in the 96th Congress, an amendment to a general appropriation bill prohibiting the use of funds therein to carry out any IRS ruling barring certain charitable deductions was held in order as a limitation, since the amendment was merely descriptive of an existing ruling already promulgated by that agency and did not

require new determinations as to the applicability of the limitation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 16, 1979 [H.R. 4393].

§ 10.17 While it is not in order as an amendment to a general appropriation bill to directly restrict the discretionary authority of a federal agency, it is permissible to limit the availability of funds in the bill for part of an authorized purpose while appropriating for the remainder. 120 CONG. REC. 20601, 20602, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472, agriculture, environment, and consumer appropriations, fiscal 1975]. In this instance, to language in an appropriation bill containing funds for the Federal Trade Commission for the purpose of collecting line-of-business data, an amendment providing that none of those funds shall be used for collecting such data from "not (sic) more than 250 firms" was held to constitute a valid limitation on the availability of funds in the bill—rather than an express restriction on the scope of the FTC investigation. In the 95th Congress, the Chair indicated that an amendment to a general appropriation bill negatively restricting funding therein for part of a discretionary activity authorized by law would be in order if no new affirmative duties or determinations were thereby required. 124 CONG. REC. 16996, 95th Cong. 2d Sess., June 9, 1978 [H.R. 12933]. In this instance, an amendment to a general appropriation bill making appropriations for the Department of Transportation and related agencies, to deny the use of funds therein to implement regulations requiring occupant restraint systems (other than seat belts) in motor vehicles was held in order as a valid limitation on the use of the funds in the bill, since it merely restricted funding for part of a discretionary authority authorized by law, but imposed no duties or determinations not required by law.

§ 10.18 While language in a general appropriation bill may not by its terms directly curtail a discretionary authority conferred by law, the Committee on Appropriations may, by refusing to recommend funds for all or part of an authorized executive function, thereby effect a change in policy to the extent of its denial of availability of funds. 120 CONG. REC. 34716, 34717, 93d Cong. 2d Sess., Oct. 9, 1974 [H.R. 16901], where a section in a general appropriation bill prohibiting the use of any funds therein by the Environmental Protection Agency "to administer any program to tax, limit or otherwise regulate parking facilities" was held in order as a negative limitation on the use of funds in the bill.

§ 10.19 It is in order on a general appropriation bill to provide that no part, or only a specified amount, of an appropriation shall be used in a certain way, even though executive discretion be thereby negatively restricted. 118 CONG. REC. 30749, 92d Cong. 2d Sess., Sept. 14, 1972 [H.R. 16593], where an amendment to a defense appropriation bill providing that not more than a certain amount of funds therein for alteration, overhaul, and repair of naval vessels shall be available for such work in Navy shipyards was held in order as a limitation on the use of funds in the bill.

§ 10.20 Language in an appropriation act which specified that funds therein shall not be used "prior to approval by" an appropriate state agency was held to be a limiting provision, not imposing additional duties on a federal executive, and in order. 112 CONG. REC. 7118, 89th Cong. 2d Sess., Mar. 29, 1966 [H.R. 14012].

§ 10.21 To a paragraph in a general appropriation bill containing funds for the Occupational Safety and Health Administration, an amendment prohibiting the use of those funds for expenses of inspection of employers who have submitted plans for compliance with the Occupational Safety and Health Act where the Secretary of Labor has approved such plans, was held a proper limitation on the use of funds in the bill which did not impose an

additional affirmative duty on that federal official. 118 CONG. REC. 31322, 92d Cong. 2d Sess., Sept. 19, 1972 [H.R. 16654].

§ 10.22 A negative restriction on the availability of funds in a general appropriation bill may be a proper limitation, although it indirectly interferes with an executive official's discretionary authority by denying the use of funds, as long as it does not directly amend exisiting law and is merely descriptive of functions and findings already required to be undertaken by exisitng law. 122 CONG. REC. 20410, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232].

§ 10.23 An amendment to a general appropriation bill denying availability of funds therein to pay certain benefits to persons simultaneously entitled by law to other benefits, or in amounts in excess of those other entitlement levels, was held in order as a limitation, since existing law already required executive officials to determine whether and to what extent recipients of funds contained in the bill were also receiving those other entitlement benefits. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 18, 1980 [H.R. 7542].

§ 10.24 An amendment to a general appropriation bill prohibiting the use of funds therein for the Occupational Health and Safety Administration to administer or enforce regulations with respect to employers of 10 or fewer employees included in a category having an occupational injury lost-work-day rate less than the national average, exempting from the prohibition certain farming operations, was held not to constitute additional legislation on an appropriation bill; the determination as to the category in which the business fell with respect to the average lost-work-day rate, and the determination whether that average was less than the national average, was easily ascertainable from statistics periodically published, pursuant to law, by the Bureau of Labor Statistics; and the exemption as to certain farming operations restated a legislative provision already in the bill, in the paragraph to which the amendment related. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 27, 1980 [H.R. 7998].

§ 11. Conditional Limitations; Time Limitations

§ 11.1 While two recent rulings have upheld the admissibility of amendments making the availability of funds in a general appropriation bill contingent upon subsequent congressional action, where the contingency is germane and is not shown to change existing law (114 CONG. REC. 16692, 90th Cong. 2d Sess., June 11, 1968 [H.R. 17734]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 6, 1979 [H.R. 4473]), the Chair in the latter ruling declared himself constrained to uphold the principle established in the former ruling absent a showing that such a contingency constituted a change in law. In an earlier precedent not cited on Sept. 6, 1979, the Chair did rule (88 CONG. REC. 5826, 77th Cong. 2d Sess., June 30, 1942 [H.R. 7319])] that an amendment prohibiting the availability of funds to enforce certain executive orders, unless those orders were approved by a concurrent resolution of the Congress, could be viewed as legislation, imposing new requirements as to further legislative action.

§ 11.2 It is not in order to make the availability of funds in a general appropriation bill contingent upon a substantive determination by an executive official which he is not otherwise required by law to make. 117 CONG. REC. 21647, 92d Cong. 1st Sess., June 23, 1971 [H.R. 9270].

§ 11.3 An amendment to an appropriation bill prohibiting the use of funds therein for stream channelization projects under the Secretary of Agriculture unless construction had begun by a date certain was held not to impose additional affirmative duties on the Secretary and in order as a limitation on the use of funds in the

bill. 117 CONG. REC. 21649, 92d Cong. 1st Sess., June 23, 1971 [H.R. 9270].

§ 11.4 An amendment to an appropriation bill, terminating the use of funds therein after the passage of certain legislation pending before the Congress, is a valid limitation and in order. 110 CONG. REC. 11388, 88th Cong. 2d Sess., May 19, 1964 [H.R. 1120] where an amendment providing that no part of these funds may be obligated after enactment of legislation establishing a National Commission on Food Marketing, was held a proper limitation and in order.

§ 11.5 To a bill appropriating funds for NASA [which had, under its authorizing legislation, authority to use appropriations for capital expenditures providing that the Committee on Science and Astronautics of the House was notified of the proposed expenditure], an amendment specifying that no funds therein appropriated could be used for capital items until 14 days after the notification required by law, was held to be a limitation upon the expenditure of funds and in order. 105 CONG. REC. 12125, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978].

§ 11.6 Where a limitation in an appropriation bill provides that "no part of the funds appropriated herein" shall be used "in any fiscal year" for a certain purpose, the addition of the phrase "in any fiscal year" does not have the effect of transforming the limitation into permanent law [as the money appropriated is, under the law and the rules of the House, usable for the fiscal year for which appropriated] and does not destroy the character of the limitation. 111 CONG. REC. 11660-62, 89th Cong. 1st Sess., May 26, 1965 [H.R. 8370].

§ 11.7 Notwithstanding legislation providing that funds when appropriated shall be available "until expended" or "without regard to fiscal year limitation," the Committee on Appropriations may nevertheless limit the availability of funds to the fiscal year covered by the bill absent a clear showing that the amounts in the general appropriation bill are required by law to remain available without such limitation. 120 CONG. REC. 21040, 21041, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544].

§ 12. Limitations as to Recipients of Funds

§ 12.1 It is in order in a general appropriation bill to describe the qualifications of the recipients of funds provided therein and to deny the availability of those funds to persons or purposes not meeting those criteria, so long as the restriction is confined to the fiscal year covered by the bill. 118 CONG. REC. 23364, 92d Cong. 2d Sess., June 29, 1972 [H.R. 15690], where it was in order in an appropriation bill to deny the availability of funds therein for food stamps to households needing assistance because of a strike. It is likewise in order in a general appropriation bill to deny the availability of funds in the bill to an office that fails to satisfy certain factual criteria, so long as no new substantive determinations are required. 124 CONG. REC. 17668, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12935]. In this instance, an amendment to a legislative branch appropriation bill denying use of funds therein for utility or custodial services for office premises occupied by an organization which had been previously requested by the Speaker to vacate such premises was held in order as a valid limitation imposing no new duties on the Speaker.

§ 12.2 An amendment to a general appropriation bill restricting the total amount of funds used to pay certain salaries and for certain positions constitutes a valid limitation if it is confined to appropriations made by that bill and does not affect funds appropriated in other acts. 118 CONG. REC. 22098, 92d Cong. 2d Sess., June 22, 1972 [H.R. 15585]. To a general appropriations bill making appropriations for

allowances and office staff for former Presidents, an amendment reducing the amount of the appropriation and limiting to a certain amount the funds available for one former President was held to be a proper limitation and in order. 123 CONG. REC. 17928, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7552]. See also Ch. 26 §§ 9 et seq., infra.

§ 12.3 An amendment prohibiting the compensation of certain persons from funds in an appropriation bill and describing the persons to whom the restriction applied was held in order as a limitation on the use of the funds where it did not directly curtail the discretionary authority of executive officials or impose affirmative duties upon them. 118 CONG. REC. 22102, 92d Cong. 2d Sess., June 22, 1972 [H.R. 15585].

§ 12.4 An amendment providing that no funds in a general appropriation bill shall be expended for the compensation of persons who refuse to appear before a committee of Congress on the ground of "executive privilege" (except 10 persons designated by the President), or for the compensation of persons in the executive office holding two positions therein, was held to constitute a valid limitation of the use of funds in the bill which did not interfere with the President's executive discretion or impose additional duties or policy changes upon him. 118 CONG. REC. 22102, 92d Cong. 2d Sess., June 22, 1972 [H.R. 15585].

§ 12.5 An amendment to a general appropriation bill which is negative in character and which prohibits the use of funds therein for salaries of persons carrying out certain programs which extend in duration beyond that fiscal year is in order as a limitation on the funds in that bill. 119 CONG. REC. 19836, 19837, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619].

§ 12.6 While an amendment under the guise of a limitation may not require affirmative action or additional duties on the part of federal officials, it is in order on a general appropriation bill to deny funds to a non-federal recipient of a federal grant program unless he is in compliance with a provision of federal law; for such a requirement places no new duties on a federal official (who is already charged with responsibility for enforcing the law) but only on the non-federal grantee. 115 CONG. REC. 17085, 91st Cong. 1st Sess., June 24, 1969 [H.R. 12307].

§ 12.7 Language in an appropriation bill providing that none of the funds therein shall be used to pay any employee of the Department of Agriculture who serves as a member of the Board of Directors or as an officer of the Commodity Credit Corporation was held to be a limitation and in order. 106 CONG. REC. 10053, 86th Cong. 2d Sess., May 11, 1960.

§ 12.8 An amendment to an appropriation bill providing that "no part of any appropriation contained in this Act shall be available" for the payment of salary of any officer or employee of the U.S. Postal Service who takes certain actions was held in order as a limitation on the use of funds in the bill. 117 CONG. REC. 22443, 92d Cong. 1st Sess., June 28, 1971 [H.R. 9271].

§ 12.9 An amendment to a general appropriation bill providing that none of the funds therein shall be used to purchase goods or services from suppliers who compensate any of the officers or employees in excess of a certain rate was held a valid limitation on the use of funds in the bill. 118 CONG. REC. 21136, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417].

§ 12.10 Where, under existing law, federal officials may have certain discretionary authority to withhold federal funds where the recipients are not in compliance with a federally expressed policy [as in the Civil Rights Act of 1964, which prohibits discrimination in the use of federal funds], it is nevertheless in order, by way of a limitation on an appropriation bill, to

deny the use of funds for a particular purpose, even though executive discretion is thereby negatively restricted. 115 CONG. REC. 21677, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111].

§ 12.11 An amendment to a general appropriation bill prohibiting the use of funds in the bill for making food stamps available during a strike to a household "which needs assistance solely because any member of such household is a participant in such strike" was held in order as a valid limitation. 118 CONG. REC. 23364, 92d Cong. 2d Sess., June 29, 1972 [H.R. 15690]. This precedent was overruled in the 95th Congress when an amendment containing similar language was offered to a general appropriation bill. The amendment, which prohibited the use of funds in the bill for food stamps to a household whose principal wage earner was on strike on account of a labor dispute to which he or his organization was a party, except where the household was eligible for and participating in the food stamp program immediately prior to the dispute, and except where a member of the household is subject to an employer's lockout, was held to impose new duties and require new investigations by executive branch officials and was ruled out as legislation. 123 CONG. REC. 20150-52, 95th Cong. 1st Sess., June 21, 1977 [H.R. 7558].

§ 12.12 In an amendment prohibiting the use of funds in a general appropriation bill for making food stamps available during a strike to a household which needs assistance "solely because any member of such household is a member of a union which has voluntarily terminated employment due to the strike", language stating that that limitation shall not apply to a household eligible for general assistance directly payable by a local government was held to constitute a valid exception (which did not impose additional duties on federal officials—determinations of eligibility for such general assistance being made by local officials as required by law). 118 CONG. REC. 23378, 92d Cong. 2d Sess., June 29, 1972 [H.R. 15690].

§ 12.13 An amendment prohibiting the payment of funds for salaries of federal employees "who inspect firms employing 25 or fewer persons to enforce compliance with the Occupational Safety and Health Act" was held in order as a negative limitation on the availability of funds in a general appropriation bill which merely described a category of employees who would not be compensated from those funds. 120 CONG. REC. 21652, 21662, 21663, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580].

§ 12.14 While it may be in order on a general appropriation bill to delay the availability of certain funds therein until a nonfederal recipient meets certain qualifications so long as the contingency does not impose new duties on federal officials or directly change existing law, the contingency must be related to the funds being withheld and cannot affect other funds in the bill which are not related to that factual situation. 120 CONG. REC. 33620, 33621, 93d Cong. 2d Sess., Oct. 2, 1974 [H.R. 16900, supplemental appropriations, fiscal 1975].

§ 12.15 An amendment prohibiting the availability of foreign assistance funds in the bill to any country in default for more than 90 days on a loan from the United States was held in order as a limitation where the information upon which the recipient's qualifications would be determined was available pursuant to existing law. 121 CONG. REC. 6571, 94th Cong. 1st Sess., Mar. 13, 1975 [H.R. 4592].

§ 12.16 An amendment denying the use of funds in a general appropriation bill to pay the salaries of federal officials who perform certain functions under existing law may be a proper limitation if the description of those functions precisely follows existing law and does not require them to perform new duties.

122 CONG. REC. 20373, 20374, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232]. In this instance, an amendment to a general appropriation bill prohibiting the use of funds therein to pay salaries of federal employees who assess civil penalties on small farmers for violations of the Occupational Health and Safety Act which are neither willful, repeated, nor serious was held not to require new determinations and not to violate Rule XXI clause 2, where it was shown that existing law (29 USC § 666) already required those precise determinations to be made in assessing penalties under that act. Also, while a limitation on the use of funds in a general appropriation bill does not constitute a violation of Rule XXI clause 2, if it merely restates identical language in existing law, the legislation in question must have been signed into law. 124 CONG. REC. 24437, 95th Cong. 2d Sess., Aug. 4, 1978 [H.R. 12931]. For a general treatment of the rule against the inclusion of legislation in appropriation bills, see Ch. 26 § 1, infra.

§ 12.17 As it is in order by way of a limitation on an appropriation bill to deny the use of funds therein for implementation of an executive order, an amendment precisely describing the contents of the executive order does not, for that reason, violate Rule XXI clause 2. Thus, an amendment to a general appropriation bill prohibiting the use of funds therein for salaries or expenses connected with dismissal of any pending indictments, or termination of any pending investigation of violations of the Military Selective Service Act, or to permit persons to enter the United States who committed or apparently committed violations of that act—the exact determinations required by an executive order issued pursuant to law by the President to implement his pardon program for draft evaders—was held in order as a limitation, not requiring new determinations by federal officials, which merely denied the availability of funds to implement the executive order. 123 CONG. REC. 7747-49, 95th Cong. 1st Sess., Mar. 16, 1977 [H.R. 4877].

§ 12.18 To a general appropriation bill making appropriations for allowances and office staff for former Presidents, an amendment reducing the amount of the appropriation and limiting to a certain amount the funds available for one former President was held to be a proper limitation and in order. 123 CONG. REC. 17925, 17928, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7552].

§ 12.19 Where the recipient of an appropriation is required by law to submit annual itemized expenditure statements as a matter of public record, an amendment to a general appropriation bill denying the use of funds therein to that recipient if it compensated its employees above a certain level was held not to impose new duties of accounting beyond those implied by existing law. 124 CONG. REC. 16691, 95th Cong. 2d Sess., June 9, 1978 [H.R. 12933].

§ 12.20 Where existing law (19 USC § 2292) relating to trade readjustment allowances to workers unemployed because of import competition required the disbursing agency to take into consideration levels of unemployment insurance entitlements under other law in determining payments, an amendment to a general appropriation bill reducing the availability of funds therein for trade adjustment assistance by amounts of unemployment insurance was held not to impose new duties upon officials already required to make those reductions. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 18, 1980 [H.R. 7542].

§ 13. Limitations on Use for Particular Purposes

§ 13.1 An amendment prohibiting the use of funds in a general appropriation bill for a certain purpose is in order, although the availability of funds for that purpose is authorized by law. 119 CONG. REC. 20998, 20999, 93d Cong. 1st Sess., June 22, 1973 [H.R. 8825], where an

amendment reducing the amount and prohibiting the use of funds in the bill for a space transportation or shuttle system was held to constitute a proper limitation on the use of funds in the bill which did not impose affirmative duties on any official.

§ 13.2 An amendment to a general appropriation bill which restricts the use of money in the bill to a part of an authorized project where the bill would permit full funding of the authorization is in order as a limitation. 115 CONG. REC. 20329, 91st Cong. 1st Sess., July 22, 1969.

§ 13.3 Language in an appropriation bill which specifies that funds therein shall not be used for any project which "does not have local official approval" was held to be a limiting provision, not imposing additional duties, and in order. 111 CONG. REC. 26994, 89th Cong. 1st Sess., Oct. 14, 1965 [H.R. 11588].

§ 13.4 Language in a supplemental appropriation bill providing funds for the rent-supplement program, specifying that "no part of the appropriation or contract authority shall be used" on any project not part of a "workable program for community improvement" (as defined in the Housing Act of 1949) or which is without local official approval, was held to be a proper limitation and in order. 111 CONG. REC. 26994, 89th Cong. 1st Sess., Oct. 14, 1965 [H.R. 11588, supplemental appropriations, fiscal 1966].

§ 13.5 An amendment to a supplemental appropriation bill providing funds for public works acceleration but prohibiting use of such funds for (1) projects previously rejected and (2) projects, other than for forest preservation, not requiring state or local matching funds, was held to be a limitation and in order. 109 CONG. REC. 6130-32, 88th Cong. 1st Sess., Apr. 10, 1963 [H.R. 5517].

§ 13.6 To a general appropriation bill, including funds for the Treasury Department, an amendment providing that none of the funds therein shall be used for any expense in connection with customs clearance or import licenses for rifles which are not registered with the Commissioner of Customs, was held to be a proper limitation and in order. 114 CONG. REC. 16712, 90th Cong. 2d Sess., June 11, 1968 [H.R. 17734].

§ 13.7 An amendment to a general appropriation bill, providing that no funds therein may be used for the seizure of mail (in connection with income tax investigations) without a search warrant, was held to be a limitation and in order. 111 CONG. REC. 6869, 89th Cong. 1st Sess., Apr. 5, 1965 [H.R. 7060]. But where an amendment prohibited the use of funds by OSHA for any inspection conducted by that agency without a search warrant based on probable cause as authorized by law, it was held out of order as legislation since it would impose new affirmative duties to make applications to courts, a procedure not required by statutory law or uniformly required by the federal courts. 123 CONG. REC. 19373, 95th Cong. 1st Sess., June 16, 1977 [H.R. 7555]. See also 124 CONG. REC. 16677, 95th Cong. 2d Sess., June 7, 1978 [H.R. 12929], where an amendment to a general appropriation bill denying use of funds for OSHA to conduct inspections of small businesses unless a warrant had been previously obtained was ruled out of order as legislation since existing law as interpreted by the Supreme Court required a warrant for such inspections only where the business under inspection insisted upon such a warrant. *Note:* As in the previous precedent on this issue (June 16, 1977) the Chair took judicial notice of the status of the case law on the necessity for warrants for inspections.

§ 13.8 To a general appropriation bill providing funds for hospital construction, an amendment providing that "no part of any appropriations in this paragraph may be used . . . for any hospital . . . having separate facilities . . . on the basis of race, creed, or color" was held to be a limitation and in order. 108 CONG.

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REC. 5164, 87th Cong. 2d Sess., Mar. 27, 1962 [H.R. 10904].

§ 13.9 To a bill appropriating funds for the Civil War Centennial Commission, an amendment providing that none of the funds appropriated may be used for activities conducted in facilities in which individuals are segregated or discriminated against because of race, religion, or color, was held to be a limitation and in order. 107 CONG. REC. 6132, 87th Cong. 1st Sess., Apr. 18, 1961 [H.R. 6345].

§ 13.10 To a bill appropriating emergency funds for the President, an amendment providing that none of the funds appropriated in the bill shall be spent in violation of the provisions of a section of the bill was held to be a limitation and in order. 105 CONG. REC. 9012, 86th Cong. 1st Sess., May 25, 1959 [H.R. 7176].

§ 13.11 To a bill appropriating funds for an additional Washington, D.C. airport, an amendment placing a limit on the amount of the appropriation which may be used for the construction of an authorized access road was held to be a proper limitation and in order. 105 CONG. REC. 12121, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978].

§ 13.12 A provision in a paragraph of a general appropriation bill prohibiting the transfer of funds therein to any other account or activity unless specifically authorized was held to be a proper limitation on the use of funds in the paragraph. 119 CONG. REC. 27289, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590].

§ 13.13 An amendment to a general appropriation bill which is negative in character and which prohibits, during the fiscal year covered by the bill, certain uses of the funds therein to carry out a program whose duration extends beyond that fiscal year, is in order as a limitation even though its imposition might require incidental duties (not contemplated in the legislation establishing the administrative agency) on the part of those administering the funds. 118 CONG. REC. 23353, 92d Cong. 2d Sess., June 29, 1972 [H.R. 15690].

§ 13.14 Language in a general appropriation bill providing that "no part of this appropriation [to the Veterans' Administration] may be used for expenses of any area medical or regional representative offices," was held to be a limitation and in order. 111 CONG. REC. 10168, 89th Cong. 1st Sess., May 11, 1965 [H.R. 7997].

§ 13.15 To a general appropriation bill, an amendment providing that expenditures by committees of Congress or by the Architect of the Capitol shall be limited to such as are of public record and open for public inspection, was held to be a proper limitation on funds in the bill and in order. 110 CONG. REC. 7642, 88th Cong. 2d Sess., Apr. 10, 1964 [H.R. 10723].

§ 13.16 To an amendment to a general appropriation bill containing a lump-sum appropriation for the construction of several rivers and harbors projects, an amendment prohibiting the use of those funds for the construction of two specific projects was held in order as a negative limitation on the use of funds in the bill. 122 CONG. REC. 18173, 18174, 94th Cong. 2d Sess., June 15, 1976 [H.R. 12436].

§ 13.17 As it is in order by way of a limitation on an appropriation bill to deny the use of funds therein for implementation of an executive order, an amendment precisely describing the contents of the executive order does not violate Rule XXI clause 2. 123 CONG. REC. 7748, 95th Cong. 1st Sess., Mar. 16, 1977 [H.R. 4877].

§ 13.18 An amendment to the legislative branch appropriations bill denying use of funds therein to install pay toilets in the Capitol was held in order as a valid limitation which was merely a negtive restriction on use of funds in the bill. 124 CONG. REC. 17674,

95th Cong. 2d Sess., June 14, 1978 [H.R. 12935].

§ 13.19 An amendment to a general appropriation bill prohibiting the use of funds therein to pay rewards was held in order as a limitation on use of funds imposing no new duties on federal officials. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 13, 1979 [H.R. 4393].

§ 13.20 An amendment to a general appropriation bill providing funds for the Economic Regulatory Administration of the Department of Energy, prohibiting use of such funds to promulgate, administer, or enforce gasoline allocation or price controls, was upheld since it was couched as a simple limitation on the use of ERA funds and did not directly restrict any discretionary authority of the President. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 30, 1979 [H.R. 4930]. *Note:* Although 15 USC § 590g gives the discretionary authority *to the President* to impose gasoline controls, this amendment did not restrict his authority but would have prohibited the ERA from using funds to carry out any functions delegated by the President to carry out such regulations.

§ 14. — Agricultural Purposes

§ 14.1 To a general appropriation bill providing funds for the Department of Agriculture and including a specific allocation of funds for animal disease and pest control, an amendment providing that "no appropriation in this Act shall be used for the purchase or application of chemical pesticides where such action would be prohibited by state or local law" was held to be in order as a limitation on the use of the funds therein. 115 CONG. REC. 13752, 91st Cong. 1st Sess., May 26, 1969 [H.R. 11612].

§ 14.2 To a general appropriation bill providing funds for restoration of capital for the Commodity Credit Corporation, a provision that no funds appropriated shall be used to process a loan which is in excess of $50,000 was held to be a limitation and in order. 105 CONG. REC. 8337, 86th Cong. 1st Sess., May 18, 1959 [H.R. 7175].

§ 14.3 To an agricultural appropriation bill including funds for a statistical reporting service, an amendment denying use of these funds for publishing any "parity" ratio other than that which is defined in § 301, Agricultural Adjustment Act, was held a limitation and in order. 110 CONG. REC. 11389, 88th Cong. 2d Sess., May 19, 1964 [H.R. 11202].

§ 14.4 To an agricultural appropriation bill including funds for the Agricultural Marketing Service, an amendment providing that no part of these funds may be used for dissemination of market information over government-owned or leased wires to privately owned newspapers, radio or television stations, was held to be a proper limitation and in order. 110 CONG. REC. 11391, 88th Cong. 2d Sess., May 19, 1964 [H.R. 11202].

§ 14.5 To an agricultural appropriation bill, an amendment specifying that none of the funds therein shall be used for commodity programs under which payments to any single farmer would exceed a certain dollar amount was held a proper limitation and in order. 114 CONG. REC. 11281-88, 90th Cong. 2d Sess., May 1, 1968 [H.R. 16913].

§ 14.6 To an appropriation bill providing funds for programs operated by the Commodity Credit Corporation, and permitting a transfer of certain Corporation funds to those programs, an amendment specifying that "no funds in this Act shall be used for price support programs under which payments to any single producer exceed" a certain sliding scale of amounts was held in order as a limitation. 115 CONG. REC. 13762, 91st Cong. 1st Sess., May 26, 1969 [H.R. 11612].

§ 14.7 To a general appropriation bill making appropriations for the Department of Agricul-

ture, an amendment limiting payments from funds in the bill to feed grain producers to 20% of the fair market value of acreage diverted under the Soil Conservation and Domestic Allotment Act, was held a proper limitation and in order. 111 CONG. REC. 11656, 89th Cong. 1st Sess., May 26, 1965 [H.R. 8370].

§ 14.8 To a general appropriation bill providing funds for agricultural conservation, a provision that no part of the appropriation for soil building and soil and water conserving practice shall be used to make certain payments authorized by law was held to be a limitation and in order. 105 CONG. REC. 8328-32, 86th Cong. 1st Sess., May 18, 1959 [H.R. 7175].

§ 14.9 To an agricultural appropriation bill, an amendment specifying that no part of the funds therein shall be used, in any fiscal year, for farm program payments aggregating more than $50,000 to any person or corporation, was held to be a proper limitation and in order. 111 CONG. REC. 11660-62, 89th Cong. 1st Sess., May 26, 1965 [H.R. 8370].

§ 14.10 To a general appropriation bill providing funds for the Department of Agriculture, an amendment providing that "none of the funds . . . herein shall be used to pay the salary of any . . . employee who . . . performs duties . . . incidental to supporting the price of . . . cotton at a level in excess of 30 cents a pound" was held to be a limitation and in order. 109 CONG. REC. 10411, 88th Cong. 1st Sess., June 6, 1963 [H.R. 6754].

§ 14.11 To a general appropriation bill providing funds for the Federal Crop Insurance Corporation, and limiting the amount of premium income derived from the fund which may be used for operating expenses, an amendment providing that "no funds herein shall be used to formulate a crop insurance program that does not meet its operating expenses from premium income," was held to be a proper limitation and in order. 112 CONG. REC. 8968, 89th Cong. 2d Sess., Apr. 26, 1966 [H.R. 14596].

§ 14.12 An amendment adding a new section to the agriculture appropriation bill providing that no funds in the bill shall be used to prohibit individuals from growing or producing any crops or livestock was negative in effect, confined to the funds in the bill and held in order as a proper limitation. 121 CONG. REC. 22596, 22598, 94th Cong. 1st Sess., July 14, 1975 [H.R. 8561].

§ 14.13 To a paragraph of a general appropriation bill containing funds for restoration of capital for the Commodity Credit Corporation, an amendment prohibiting the availability over a certain limit of those funds to formulate or carry out a peanut price support program was held in order as a negative restriction on the use of funds in the bill which did not directly interfere with discretionary authorities conferred upon that corporation by law. 122 CONG. REC. 18660, 18661, 94th Cong. 2d Sess., June 16, 1976 [H.R. 14237].

§ 14.14 An amendment to a general appropriation bill providing that no funds therein shall be obligated or expended for the salaries and expenses of federal officials to formulate or carry out tobacco programs was held in order as a negative limitation on the use of funds in the bill which did not directly change an existing law requiring the Commodity Credit Corporation to dispose of excess tobacco stocks. 123 CONG. REC. 19882, 95th Cong. 1st Sess., June 20, 1977 [H.R. 7558].

§ 15. — Educational Purposes

§ 15.1 Language in a general appropriation bill providing funds for a National Teacher Corps, specifying that "none of these funds may be spent . . . prior to approval . . . of the State educational agency", held to be a proper limitation and in order. 112 CONG. REC. 7118,

89th Cong. 2d Sess., Mar. 29, 1966 [H.R. 14012].

§ 15.2 To a general appropriation bill including funds for college housing construction, an amendment denying use of the funds for an institution unless it is in full compliance with a provision of existing law was held in order as a proper limitation. 115 CONG. REC. 17085, 91st Cong. 1st Sess., June 24, 1969 [H.R. 12307].

§ 15.3 Where legislation authorizing funds for impacted school aid establishes an apportionment formula for distribution of that assistance to educational agencies, language in a general appropriation bill providing a uniform reduction of amounts available to all agencies for a certain category of such aid does not violate clause 2 Rule XXI. 117 CONG. REC. 10096, 92d Cong. 1st Sess., Apr. 7, 1971 [H.R. 7016], where a proviso in an appropriation bill limiting the availability of funds therein to educational agencies in which the degree of "impact" is below a certain percentage of total school enrollment was held proper.

§ 15.4 To a general appropriation bill providing funds for educational assistance to "federally impacted areas," an amendment providing that the appropriation shall not be available for a certain percentage of children living on federal property or where local contribution rates are not determined in accordance with certain requirements, was held a proper limitation and in order. 112 CONG. REC. 9833, 89th Cong. 2d Sess., May 4, 1966 [H.R. 14745].

§ 15.5 Where existing law authorized basic opportunity grants for higher education assistance to students in all years of study, an amendment prohibiting the availability of funds in a general appropriation bill for assistance to students enrolled prior to a date certain was held in order as a negative limitation on the use of funds in the bill. 120 CONG. REC. 21670-72, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580].

§ 15.6 Where existing law prohibited the implementation by any court, department, or agency of a plan to transport students to a school other than the school *nearest or next nearest* their homes which offers the appropriate grade level and type of education for each student—thus requiring determinations of school proximity and curriculum to be made by federal officials—a paragraph in a general appropriation bill, prohibiting the use of funds therein for the transportation of students to a school other than the school *nearest* their homes and offering the courses of study pursued by such students, was held in order as a negative limitation on the use of funds in that bill which did not directly amend existing law and which did not impose new determinations on federal officials which they were not already required by law to make. 122 CONG. REC. 20408-10, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232].

§ 16. — Foreign Aid; International Considerations

§ 16.1 To a general appropriation bill containing funds for foreign assistance, an amendment prohibiting the availability of those funds to any Nation "which requires payment [for exit visas] in excess of $50 or its equivalent" was held in order as a limitation which did not require extensive new investigations by federal officials to determine a recipient's eligibility, the prohibition being based on an easily discernible standard. 118 CONG. REC. 31835, 92d Cong. 2d Sess., Sept. 21, 1972 [H.R. 16705].

§ 16.2 To a general appropriation bill containing funds for foreign assistance, an amendment prohibiting the availability of funds therein for nonmarket economy countries other than those eligible for certain preferential tariff treatment under existing law was held a proper limitation on the use of funds in

the bill. 119 CONG. REC. 40871, 93d Cong. 1st Sess., Dec. 11, 1973 [H.R. 11771].

§ 16.3 To a general appropriation bill, an amendment providing that "no funds appropriated herein shall be used to administer programs for the sale of agricultural commodities to any nation which sells or permits ships or aircraft under its registry to transport to North Vietnam, so long as North Vietnam is governed by a Communist regime," was held a limitation and in order. 112 CONG. REC. 8969, 89th Cong. 2d Sess., Apr. 26, 1966 [H.R. 14596].

§ 16.4 To a supplemental appropriation bill including, *inter alia,* funds for the Export-Import Bank, an amendment providing that "none of the funds made available by this bill shall be used by the Bank to guarantee the payment of any obligation hereafter incurred by any Communist country . . . or in any other way to participate in extension of credit to any such country" was held in order as a proper limitation. 112 CONG. REC. 27425, 89th Cong. 2d Sess., Oct. 18, 1966 [H.R. 18381].

§ 16.5 To a general appropriation bill including funds for NASA, an amendment providing that no part of the funds therein shall be used for expenses of a joint United States-Russian manned lunar landing or for expenses of any project primarily designed for such undertaking, was held a proper limitation and in order. 109 CONG. REC. 19258-60, 88th Cong. 1st Sess., Oct. 10, 1963 [H.R. 8747].

§ 16.6 To a general appropriation bill providing funds for foreign assistance programs, an amendment providing that none of the funds therein may be used to pay "dues or assessments of members of the United Nations" was held to be a proper limitation and in order. 108 CONG. REC. 20187, 87th Cong. 2d Sess., Sept. 20, 1962 [H.R. 13175].

§ 16.7 To a general appropriation bill providing funds for the United States contribution to a United Nations assessment, an amendment limiting expenditures under the appropriation to 32.02 percent of the aggregate payments to the United Nations by all members was held to be a limitation and in order. 108 CONG. REC. 5943, 87th Cong. 2d Sess., Apr. 4, 1962.

§ 16.8 Language in a general appropriation bill providing that none of the funds for the International Cooperation Administration shall be used to enter into contracts with any concern which compensates employees or former employees of ICA, was held to be a limitation and in order. 105 CONG. REC. 14529, 86th Cong. 1st Sess., July 28, 1959 [H.R. 8385].

§ 16.9 To a general appropriation bill providing funds for a Mutual Security Act program, an amendment providing that none of the funds therein could be used to finance any nonmilitary construction project abroad that had not met the criteria used in determining the feasibility of flood control projects in the United States, was held to be a limitation and in order. 105 CONG. REC. 14522, 14524, 86th Cong. 1st Sess., July 28, 1959 [H.R. 8385].

§ 16.10 To a general appropriation bill providing funds for the Mutual Security Act program, an amendment providing that no funds in the bill shall be used to implement certain executive agreements made under authority of the Atomic Energy Act of 1954 was held to be a limitation and in order. 105 CONG. REC. 14524, 86th Cong. 1st Sess., July 28, 1959 [H.R. 8385].

§ 16.11 To a general appropriation bill making appropriations for the Mutual Security Act program, an amendment providing that no funds in the bill shall be used for purposes of the International Cooperation Administration program where more than 20 days have elapsed between the submission of a request by the General Accounting Office or a committee of Congress for information relating to the administration of ICA and the furnishing of such information, was held to be a limitation and in

order. 106 CONG. REC. 13144, 86th Cong. 2d Sess., June 17, 1960 [H.R. 126199].

§ 17. — Military and Defense Spending

§ 17.1 To a general appropriation bill making appropriations for military construction, an amendment specifying that none of the funds appropriated therein shall be available for payments on contracts under which a labor organization, by engaging in slowdowns, work stoppages, or strikes, has impeded the performance of a contract with the Department of Defense, was held to be a limitation and in order. 106 CONG. REC. 12269, 86th Cong. 2d Sess., June 9, 1960 [H.R. 12231].

§ 17.2 An amendment to a Defense Department appropriation bill providing that not more than a certain amount of funds therein for alteration, overhaul, and repair of naval vessels shall be available for such work in Navy shipyards was held in order as a limitation on the use of funds in the bill. 118 CONG. REC. 30749, 92d Cong. 2d Sess., Sept. 14, 1972 [H.R. 16593].

§ 17.3 To a bill making supplemental defense appropriations, an amendment providing "that none of the funds so appropriated shall be available for implementation of any plan to invade North Vietnam", was held in order as a valid limitation. 113 CONG. REC. 6886, 90th Cong. 1st Sess., Mar. 16, 1967 [H.R. 7123].

§ 17.4 To a bill making supplemental appropriations for various government departments, including the Department of Defense, an amendment providing that no part of the appropriations therein shall be available, without the express authorization of Congress, for maintenance of more than 525,000 troops in Vietnam or for an invasion of North Vietnam, was held in order as a limitation. 114 CONG. REC. 16692, 90th Cong. 2d Sess., June 11, 1968 [H.R. 17734].

§ 17.5 To a general appropriation bill appropriating funds for defense procurement, an amendment providing that "none of the funds herein shall be available for paying the cost of a conventional powerplant" for a designated ship, was held to be a proper limitation and in order even though it was apparent that there were no funds in the bill for the ship in question. 110 CONG. REC. 8802, 88th Cong. 2d Sess., Apr. 22, 1964 [H.R. 10939].

D. REAPPROPRIATIONS

§ 18. In General

§ 18.1 Reappropriations of unexpended balances may not be considered in a general appropriation bill or amendment thereto (with the exception of certain public works appropriations). Clause 6 Rule XXI. Prior to Jan. 3, 1975, clause 6 was designated as clause 5.

§ 18.2 Language in a general appropriation bill which seeks to reappropriate unexpended balances of appropriations is in violation of clause 5 [now clause 6] Rule XXI, and is not in order. 106 CONG. REC. 6862, 86th Cong. 2d Sess., Mar. 29, 1960 [H.R. 11390]. Accordingly, a provision in a general appropriation bill extending the availability of previously appropriated funds during the current fiscal year was conceded to be a reappropriation and was ruled out in violation of Rule XXI clause 6. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 5, 1979 [H.R. 4473].

§ 18.3 A section in a general appropriation bill permitting the transfer of funds available in other acts for employment of guards for government buildings and conferring certain powers on those guards and on the Postmaster General was conceded to be subject to a point of order and was ruled out in violation of clause 2 and clause 5 [now clause 6] of Rule

XXI. 119 CONG. REC. 27291, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590].

§ 18.4 Where a bill providing an annual authorization for the Coast Guard Reserve had not yet been enacted into law, an amendment to a general appropriation bill containing funds for Coast Guard Reserve training and providing that amounts equal to prior year appropriations for that purpose shall be transferred to that appropriation was held to contain an unauthorized appropriation in violation of clause 2 Rule XXI and a reappropriation of unexpended balances in violation of clause 5 [now clause 6] Rule XXI. 119 CONG. REC. 20538, 20539, 93d Cong. 1st Sess., June 20, 1973 [H.R. 8760].

§ 18.5 *Note:* A provision in an appropriation bill permitting an appropriation previously made (in another act) to be used for a new purpose is not in order, and may constitute a reappropriation of unexpended balances under clause 5 [now clause 6] Rule XXI. 115 CONG. REC. 38541, 91st Cong. 1st Sess., Dec. 11, 1969, where a provision in a supplemental appropriation bill permitting Members to use their clerk-hire allowances for employment of a student congressional intern, a use not authorized by law, was conceded to be subject to a point of order and was ruled out. Likewise, a provision in a general appropriation bill converting funds from accounts carried in prior appropriation bills to use for a new purpose was conceded to be a reappropriation and was ruled out in violation of Rule XXI clause 6. 123 CONG. REC. 20732, 95th Cong. 1st Sess., June 24, 1977 [H.R. 7933].

§ 18.6 A provision in a general appropriation bill which permitted the transfer to an appropriation therein of amounts contained in other items in that bill, while not constituting a reappropriation proscribed by clause 5 [now clause 6] of Rule XXI, was conceded to be in violation of the rules (as legislative in character) and was therefore ruled out on a point of order. 117 CONG. REC. 18039, 92d Cong. 1st Sess., June 4, 1971 [H.R. 8825, legislative branch appropriations, fiscal 1972]. *Note:* Transfers of appropriations within the confines of the same bill are normally considered in order on a general appropriation bill.

§ 18.7 A paragraph in a general appropriation bill containing funds for conservation and pollution abatement practices of the Environmental Protection Agency, to be "transferred to and merged with the authority of the Agricultural Conservation Program (REAP) for the 1974 program" (which was also funded in that bill) was conceded to contain language subject to a point of order, and was, by unanimous consent, amended to delete the transfer provision. 119 CONG. REC. 19852, 19853, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619, agriculture-environmental and consumer protection appropriations, fiscal 1974]. *Note:* Although the point of order was conceded, it was not apparent that the transfer of funds was clearly objectionable. However, there may have been REAP funds available from other appropriation acts for the 1974 program, in which event the transfer would have been subject to a point of order under clause 5 [now clause 6] Rule XXI.

§ 18.8 A paragraph in a general appropriation bill authorizing the transfer of a certain percentage of funds for the Environmental Protection Agency among different appropriations in the bill and including a provision restricting transfers of funds to enforce deadlines unless such funds were so identified was, by unanimous consent, amended to strike out the restriction, and a point of order against the paragraph was then withdrawn. 119 CONG. REC. 19853, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619].

§ 18.9 Clause 5 [now clause 6] Rule XXI, relating to the reappropriation of unexpended balances of appropriations, is not applicable when the reappropriation language is identical to the authorization language enacted subse-

quent to the adoption of the rule. 107 CONG. REC. 18133, 87th Cong. 1st Sess., Sept. 5, 1961, where the Foreign Assistance Act of 1961 [Pub. L. No. 87-195] specifically provided that "unexpended balances of funds made available under the Mutual Security Act of 1954 . . . are hereby authorized to be continued available for general purposes for which appropriated," the Speaker pro tempore held that a provision in an appropriation bill reappropriating the unexpended balances of such funds was in order.

§ 18.10 A section of a general appropriation bill amending an appropriation act to increase above the authorized limit the availability of funds already appropriated for a specified purpose was ruled out as an appropriation unauthorized by law (in violation of Rule XXI clause 2), and as a reappropriation of unexpended balances (in violation of Rule XXI clause 5). 120 CONG. REC. 10594, 93d Cong. 2d Sess., Apr. 10, 1974 [H.R. 14013, supplemental appropriations, fiscal 1974].

§ 18.11 A point of order against an amendment to a general appropriation bill making appropriations which are available for the current fiscal year available for certain purposes was sustained on the basis that the amendment was not confined to the funds contained in the bill and would permit the reappropriation of unexpended balances in violation of Rule XXI clause 6. 121 CONG. REC. 31090, 94th Cong. 1st Sess., Oct. 1, 1975 [H.R. 9861].

E. CONSIDERATION AND DEBATE

§ 19. In General; Effect of Special Orders

§ 19.1 By unanimous consent the House may make in order the consideration of a resolution providing supplemental appropriations for a single government agency. 108 CONG. REC. 1149, 87th Cong. 2d Sess., Jan. 30, 1962. The consideration of such resolution may by unanimous consent be made in order in the House as in the Committee of the Whole. 123 CONG. REC. 3473, 95th Cong. 1st Sess., Feb. 3, 1977 [H.J. Res. 227, supplemental appropriations for the Southwestern Power Administration].

§ 19.2 A joint resolution providing supplemental appropriations for a fiscal year, previously made in order by unanimous consent, may be called up as if privileged and, also, by unanimous consent, considered in the House as in the Committee of the Whole. 115 CONG. REC. 7378, 7383, 91st Cong. 1st Sess., Mar. 25, 1969 [H.J. Res. 584].

§ 19.3 *Note:* A joint resolution continuing appropriations for a fiscal year may be called up as if privileged pursuant to a previous order entered into by unanimous consent, although it had been reported pursuant to clause 2 Rule XIII. See 111 CONG. REC. 14846, 14849, 89th Cong. 1st Sess., June 28, 1965 [H.J. Res. 553].

§ 19.4 Pursuant to a special order previously agreed to, a joint resolution continuing appropriations may be called up as if privileged and considered in the House as in the Committee of the Whole. 110 CONG. REC. 20055, 88th Cong. 2d Sess., Aug. 18, 1964; 111 CONG. REC. 26881, 89th Cong. 1st Sess., Oct. 13, 1965; 111 CONG. REC. 25342, 89th Cong. 1st Sess., Sept. 28, 1965; 115 CONG. REC. 17015-17, 91st Cong. 1st Sess., June 24, 1969 [H.J. Res. 790]; 116 CONG. REC. 21239, 91st Cong. 2d Sess., June 24, 1970 [H.J. Res. 1264].

§ 19.5 On numerous occasions the House has by unanimous consent provided for the consideration of an appropriation bill in the House as in the Committee of the Whole. 108 CONG. REC. 10481, 87th Cong. 2d Sess., June 14, 1962 [H.J. Res. 475]; 111 CONG. REC. 18578, 18580, 89th Cong. 1st Sess., July 28, 1965; 111 CONG. REC. 26881, 89th Cong. 1st Sess., Oct. 13,

1965; 112 CONG. REC. 14522, 89th Cong. 2d Sess., June 28, 1966.

§ 19.6 Joint resolutions continuing appropriations pending enactment of regular annual appropriations measures, are, by unanimous consent, generally considered "in the House as in Committee of the Whole," but are sometimes considered in Committee of the Whole to permit more extensive general debate. See 115 CONG. REC. 31867, 31886, 91st Cong. 1st Sess., Oct. 28, 1969 [H.J. Res. 966].

§ 19.7 A privileged resolution was reported from the Committee on Rules providing a "closed" rule for immediate consideration in the House of a joint resolution being discharged from the Committee on Appropriations. 120 CONG. REC. 36020, 93d Cong. 2d Sess., Oct. 17, 1974 [H. Res. 1456, providing for consideration of H.J. Res. 1167, making further continuing appropriations, fiscal 1975].

§ 19.8 The House adopted a resolution which waived points of order, except with respect to two designated provisos, against a general appropriations bill under Rule XXI clause 2, and permitted no amendments except germane amendments relating to appropriations under specific authorizing legislation. 122 CONG. REC. 27722, 94th Cong. 2d Sess., Aug. 25, 1976 [H. Res. 1490, waiving certain points of order against and restricting amendments in order to H.R. 15194]. *Note:* Special orders of this type (see Ch. 21 § 19, supra) have rarely been used in the consideration of general appropriation bills.

§ 19.9 The House adopted a resolution providing a "modified closed" rule for the consideration of a general appropriation bill; the resolution permitted no amendments in the Committee of the Whole except Appropriations Committee amendments and designated amendments printed in the Record by the manager of the bill, no amendments thereto, and waived points of order against the designated amendments. 122 CONG. REC. 28851-59, 94th Cong. 2d Sess., Sept. 1, 1976 [H. Res. 1507, providing for consideration of H.R. 14238].

§ 19.10 The House adopted a resolution providing a "modified open" rule for the consideration of a general appropriation bill; the resolution permitted no amendment or motion to recommit "affecting the compensation" of Members of the House or Senate except one designated amendment (denying the use of funds in the bill or any other act making appropriations for certain salary increases). 123 CONG. REC. p. ....., 95th Cong. 1st Sess., June 29, 1977 [H. Res. 664, providing for consideration of H.R. 7932, the legislative branch appropriations, 1978].

§ 19.11 The House adopted a resolution waiving points of order against certain unauthorized items in a general appropriation bill, and providing a "modified open" rule prohibiting any amendment making the availability of funds therein contingent upon the enactment of authorizing legislation. 124 CONG. REC. 18259, 95th Cong. 2d Sess., June 21, 1978 [H. Res. 1230, providing for consideration of H.R. 12932, Interior Department appropriations, fiscal 1979]. For a similar resolution, see 124 CONG. REC. 17797, 95th Cong. 2d Sess., June 15, 1978 [H. Res. 1236, waiving points of order against H.R. 12923, Public Works appropriations, fiscal 1979]. *Note:* Special rules waiving points of order against unauthorized items have been used where the applicable statute contains a "sunset" provision making the appropriations for an agency subject to annual authorization. (For a general discussion of such provisions, see § 5, supra.)

§ 20. When Bills May Be Reported or Considered

§ 20.1 The rules provide that a general appropriation bill may be reported "at any time" by the Appropriations Committee. Clause 4(a)

Rule XI. However, the rules also provide that no general appropriation bill may be considered in the House until printed committee hearings and a committee report thereon have been available for the Members for at least three calendar days (excluding Saturdays, Sundays, and legal holidays). Clause 6 [now clause 7] Rule XXI. The requirement for a three-day layover may be waived by the adoption of a resolution providing for the consideration of the bill notwithstanding the provisions of Rule XXI clause 7. 123 CONG. REC. 7613, 95th Cong. 1st Sess., Mar. 15, 1977 [H. Res. 412, providing for consideration of H.R. 4876].

§ 20.2 By unanimous consent, the rule [clause 6 (now clause 7) Rule XXI] prohibiting consideration of general appropriation bills until printed committee hearings and the committee report have been available for three days, may be waived. 108 CONG. REC. 19237, 87th Cong. 2d Sess., Sept. 12, 1962 [H.R. 13175].

§ 20.3 Consideration of a supplemental appropriation bill was made in order on the following Tuesday or any day thereafter, by unanimous consent, despite the fact that the bill and report would not be available for three calendar days. 114 CONG. REC. 3022, 90th Cong. 2d Sess., Feb. 15, 1968. See also 109 CONG. REC. 23971, 88th Cong. 1st Sess., Dec. 10, 1963.

§ 20.4 General debate on two appropriation bills was made in order on a day certain during the following week by unanimous consent, although reports on those bills would not be available for the three days required by the rule. 118 CONG. REC. 21150, 92d Cong. 2d Sess., June 15, 1972.

§ 20.5 Consideration of a supplemental appropriation bill, without the intervention of any point of order against the provisions of the bill, was made in order on the following Tuesday or any day thereafter, by unanimous consent. 113 CONG. REC. 35164, 90th Cong. 1st Sess., Dec. 6, 1967.

§ 20.6 Consideration of a joint resolution providing continuing appropriations may be made in order, by unanimous consent, on a subsequent day or at some subsequent time. 109 CONG. REC. 11236, 88th Cong. 1st Sess., June 20, 1963; 113 CONG. REC. 1642[illegible]0th Cong. 1st Sess., June 20, 1967; 117 CONG. REC. 27296, 92d Cong. 1st Sess., July 27, 1971.

§ 20.7 The three-day availability requirement of Rule XXI is applicable to reports by the Committee on Appropriations on general appropriation bills; the three-day availability requirement of Rule XI became applicable to all other reports from the Committee on Appropriations effective January 3, 1975 (H. Res. 988, 93d Cong.).

§ 20.8 By unanimous consent, the House may make in order for consideration at a subsequent time a joint resolution providing appropriations for one agency or department of government. 108 CONG. REC. 23206, 87th Cong. 2d Sess., Oct. 11, 1962; 111 CONG. REC. 991, 89th Cong. 1st Sess., Jan. 21, 1965; 115 CONG. REC. 7147, 91st Cong. 1st Sess., Mar. 24, 1969 [H.J. Res. 584, supplemental appropriations, Commodity Credit Corporation, fiscal 1969]. *Note:* A bill providing for continuing appropriations for one agency or department of government is not a "general appropriation bill" and is not reported or called up as privileged.

§ 21. Points of Order

§ 21.1 A point of order against consideration of a general appropriation bill, on grounds that the total proposed appropriations exceeds the total amount authorized, will not lie in the House. The proper time to demand enforcement of clause 2 Rule XXI [the rule against reporting appropriations not previously authorized] is when such item is read for amendment in the Committee of the Whole. 111 CONG.

REC. 23140, 89th Cong. 1st Sess., Sept. 8, 1965 [H.R. 10871].

§ 21.2 A point of order against a paragraph in a general appropriation bill takes precedence over a pro forma amendment to that paragraph. 116 CONG. REC. 18406, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 21.3 The proper time to raise a point of order against language in a paragraph of a general appropriation bill is after the paragraph has been read but before debate starts thereon. 106 CONG. REC. 10979, 86th Cong. 2d Sess., May 24, 1960 [H.R. 12326]. 124 CONG. REC. p. ....., 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934].

§ 21.4 A point of order against a paragraph of a general appropriation bill on the ground that it is legislation does not lie until the paragraph is read; and such a point of order is not precluded by the fact that, by unanimous consent, an amendment had been offered to the paragraph before it was read. 115 CONG. REC. 21677, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111, Labor, HEW appropriations, fiscal 1970].

§ 21.5 A point of order against language in a general appropriation bill comes too late after the reading of the following paragraph. 109 CONG. REC. 10398, 10412, 88th Cong. 1st Sess., June 6, 1963 [H.R. 6754].

§ 21.6 General appropriation bills are read by paragraphs, and when a paragraph has been passed it is too late to make a point of order against language therein. 109 CONG. REC. 24752, 88th Cong. 1st Sess., Dec. 16, 1963 [H.R. 9499]. A point of order against a paragraph in a general appropriation bill must be made immediately following the reading of that paragraph or following the granting of permission by unanimous consent to consider the portion of the bill containing that paragraph as having been read. 122 CONG. REC. 19308, 94th Cong. 2d Sess., June 18, 1976 [H.R. 14239].

§ 21.7 A point of order against a paragraph in a general appropriation bill should be raised (and not reserved) immediately after the paragraph is read and before an amendment has been offered. 121 CONG. REC. 10375, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 5901, education appropriations, fiscal 1976].

§ 21.8 Points of order against a paragraph of a general appropriation bill must be made and disposed of prior to the offering of amendments to the paragraph. 120 CONG. REC. 20600, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472, agriculture, environment, and consumer appropriations, fiscal 1975].

§ 21.9 A point of order against a paragraph of a general appropriation bill comes too late after amendments have been offered thereto. 121 CONG. REC. 10377, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 5901, education appropriations, fiscal 1976]. For a similar ruling, see 123 CONG. REC. 17945, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7557].

§ 21.10 A point of order against language in a paragraph of an appropriation bill comes too late after the paragraph has been read and amendments thereto have been considered. 105 CONG. REC. 9013, 86th Cong. 1st Sess., May 25, 1959 [H.R. 7176].

§ 21.11 A point of order against language in a general appropriation bill is not in order at the third reading of the bill. 109 CONG. REC. 10398, 10412, 88th Cong. 1st Sess., June 6, 1963 [H.R. 6754], where unanimous consent to return to a prior paragraph of an appropriation bill to permit the raising of a point of order was objected to.

§ 21.12 General appropriation bills are read by paragraphs, and points of order against separate paragraphs within a single section of such a bill must be made as the various paragraphs are read. 116 CONG. REC. 18403, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 21.13 A point of order against a paragraph of a general appropriation bill is not in order until that paragraph is read; and the Chairman has declined to recognize a Member to make a point of order against both paragraphs of a particular section when only the first of such paragraphs has been read. 116 CONG. REC. 18403, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 21.14 A general appropriation bill is read for amendment by paragraphs, and a point of order against two consecutive paragraphs comprising a section in the bill can be made only by unanimous consent. 116 CONG. REC. 18405, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 21.15 Where a section in an appropriation bill against which a point of order was made consisted of two paragraphs, the Chairman advised the Member making the point of order to confine it to the paragraph which had been read for amendment. 116 CONG. REC. 18408, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 21.16 Although a point of order against a paragraph will not lie after an amendment thereto has been debated, the Chair does not permit the reading of an amendment to preclude a point of order made by a Member who has shown due diligence and who sought recognition at the proper time. 106 CONG. REC. 10979, 86th Cong. 2d Sess., May 24, 1960 [H.R. 12326].

§ 21.17 Where the remainder of a general appropriation bill has been considered as read and open to amendment at any point by unanimous consent, points of order against any provision in that portion of the bill must be made prior to debate or amendment to the remainder of the bill. 118 CONG. REC. 22428, 92d Cong. 2d Sess., June 26, 1972 [H.R. 15586]; 120 CONG. REC. 20591, 20592, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]; 120 CONG. REC. 21044, 21045, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544]. The Chair first inquires whether any Member desires to raise a point of order against any portion of the pending text, and then recognizes Members to offer amendments to that text. 116 CONG. REC. 4019, 91st Cong. 2d Sess., Feb. 19, 1970 [H.R. 15931].

§ 21.18 Where all of a general appropriation bill (and not just the portion not yet read), was, by unanimous consent, considered as read and open to points of order and amendment at any point, the Chairman sustained a point of order against a provision conceded to be legislation in a paragraph which had been passed in reading for amendment when the unanimous-consent request was agreed to. 118 CONG. REC. 19900, 92d Cong. 2d Sess., June 7, 1972 [H.R. 15259].

§ 21.19 A point of order, if sustained against a portion of a paragraph containing legislation, is sufficient to cause the entire paragraph to be stricken. 119 CONG. REC. 27286, 27287, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590]. 123 CONG. REC. 34246, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 9375].

§ 21.20 Where a point of order is made against an entire paragraph in an appropriation bill on the ground that a portion thereof is in conflict with the rules of the House and the point of order is sustained, the entire paragraph is eliminated. 116 CONG. REC. 25634, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515]. 123 CONG. REC. 21402, 95th Cong. 1st Sess., June 29, 1977 [H.R. 7932].

§ 21.21 While a point of order can be made against an entire paragraph of a general appropriation bill if any portion contravenes the rules, it is too late to rule out the entire paragraph after points of order against specific portions have been sustained and an amendment to the paragraph has been offered. 120 CONG. REC. 21670-72, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580, the Departments of Labor and HEW appropriations, fiscal 1975].

§ 21.22 The fact that legislative provisions restricting the uses of funds in other acts for certain purposes have been permitted to remain in a general appropriation bill by failure to make a point of order does not permit the offering of an amendment adding additional legislation prohibiting the availability of funds in other acts for certain other purposes. 119 CONG. REC. 27291, 27292, 93d Cong. 1st Sess., Aug. 1, 1973.

§ 21.23 A point of order having been sustained against an entire paragraph in an appropriation bill, it is in order to offer an amendment at that point in the bill to insert a new paragraph containing the stricken language absent those provisions which were held in violation of the rules. 116 CONG. REC. 25634, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515].

§ 21.24 Where the House had under consideration a conference report on a general appropriation bill, with 42 amendments in disagreement between the two bodies, the Speaker overruled a point of order directed against the report on the ground that "none of the appropriations in the bill have been authorized by law" since the Member pressing the point of order did not particularize which items or amendments were agreed to by the conferees in violation of clause 2 Rule XX. 115 CONG. REC. 40445-48, 91st Cong. 1st Sess., Dec. 20, 1969 [H. Rept. No. 91-779 on H.R. 15149, appropriations for foreign assistance, fiscal 1970].

§ 21.25 Although no points of order had been reserved against a general appropriation bill at the time permission had been granted for filing of the report notwithstanding the adjournment of the House, a Member was subsequently permitted, by unanimous consent, to reserve all points of order against the bill. 120 CONG. REC. 32422, 32444, 93d Cong. 2d Sess., Sept. 24, 1974.

§ 21.26 Points of order must be reserved against a general appropriation bill at the time the bill is reported to the House and referred to the Union Calendar, and may be reserved after the bill has been referred to the Committee of the Whole only by unanimous consent. 120 CONG. REC. 32422, 32444, 93d Cong. 2d Sess., Sept. 24, 1974. Conversely, points of order need not be reserved against a joint resolution making supplemental appropriations for one agency because such measures are not general appropriation bills, and provisions in such measures are not susceptible to being stricken on points of order under Rule XXI clause 2. 123 CONG. REC. 3473, 95th Cong. 1st Sess., Feb. 3, 1977 [H.J. Res. 227].

§ 21.27 The Chairman of the Committee on Appropriations, while managing a general appropriation bill on the floor, made a point of order against a section in the bill which violated Rule XXI clause 2 and clause 5 [now clause 6]. 120 CONG. REC. 10594, 93d Cong. 2d Sess., Apr. 10, 1974 [H.R. 14013, supplemental appropriations, fiscal 1974].

§ 21.28 A point of order may not be reserved against a portion of a general appropriation bill (as opposed to an amendment) but must be made immediately after the portion of the bill is read or considered as read, and before amendments are offered thereto. 126 CONG. REC. p....., 96th Cong. 2d Sess., Sept. 16, 1980 [H.R. 8105].

§ 22. Amendments; Reading for Amendment

§ 22.1 An amendment to a paragraph in a general appropriation bill must be offered immediately after that paragraph is read by the Clerk. 116 CONG. REC. 11648, 91st Cong. 2d Sess., Apr. 14, 1970 [H.R. 16916], holding that a Member who is not standing and addressing the Chair at the time a paragraph in an appropriation bill is read is precluded from offering an amendment to that paragraph after subsequent paragraphs have been read. Once a

paragraph has been passed in the reading of a general appropriation bill for amendment, an amendment may not be offered to the paragraph. 123 CONG. REC. 17930, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7552]. However, an amendment inserting a new paragraph in a general appropriation bill does not come too late if offered when the Clerk has begun but has not completed the reading of the heading of the next paragraph following the point at which the new language would be inserted. 124 CONG. REC. 24258, 95th Cong. 2d Sess., Aug. 3, 1978 [H.R. 12931].

§ 22.2 An amendment to a paragraph of an appropriation bill which has been passed during the reading of the bill may be offered only by unanimous consent. 116 CONG. REC. 11648, 91st Cong. 2d Sess., Apr. 14, 1970 [H.R. 16916]; 118 CONG. REC. 21118-22, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417].

§ 22.3 A general appropriation bill is read for amendment by paragraphs, and where the Clerk has read a paragraph in title II, an amendment to insert a new section at the end of title I may be offered only by unanimous consent. 120 CONG. REC. 19709, 19710, 93d Cong. 2d Sess., June 18, 1974 [H.R. 15405].

§ 22.4 The pending paragraph of an appropriation bill being read under the five-minute rule is open to amendment at any point, and a senior member of the committee reporting the bill is first recognized to offer an amendment notwithstanding the fact that it would insert matter on a line in the paragraph following the line sought to be amended by another member. 116 CONG. REC. 25635, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515].

§ 22.5 Where an amendment in the nature of a substitute for several paragraphs of an appropriation bill has been agreed to, timely notice having been given that separate motions would then be made to strike out the following paragraphs of the bill as they are read, such paragraphs are subject to perfecting amendment, as well as to motions to strike, when read. 118 CONG. REC. 21106, 21118-22, 92d Cong. 2d Sess., June 5, 1972 [H.R. 15417].

§ 22.6 A legislative provision in a general appropriation bill, not subject to a point of order under clause 2 Rule XXI, because the House has adopted a resolution waiving points of order against that portion of the bill, may be perfected by germane amendment which does not add additional legislation. 115 CONG. REC. 13271, 91st Cong. 1st Sess., May 21, 1969 [H.R. 11400].

§ 22.7 A point of order against a portion of an amendment to a general appropriation bill is sufficient, if sustained, to rule out the entire amendment. 122 CONG. REC. 20551, 94th Cong. 2d Sess., June 25, 1976 [H.R. 14231].

§ 23. Waiving Points of Order

§ 23.1 The House may adopt a resolution waiving points of order against a section of an appropriation bill which contains legislative provisions in violation of clause 2 Rule XXI. 115 CONG. REC. 14055, 91st Cong. 1st Sess., May 27, 1969 [H. Res. 424, waiving points of order against a portion of H.R. 11582].

§ 23.2 Where the House is considering a general appropriation bill under a resolution waiving all points of order against the bill, a paragraph enacting the provisions of several House-passed resolutions as permanent law, though concededly legislative in character, is not subject to a point of order. 116 CONG. REC. 40941, 91st Cong. 2d Sess., Dec. 10, 1970 [H.R. 19928].

§ 23.3 Where the Committee on Rules intended to recommend a waiver of points of order against unauthorized items in a general appropriation bill but not against legislative language therein, the Member calling up the resolution offered an amendment to reflect that intention. 116 CONG. REC. 25240-42, 91st Cong.

2d Sess., July 21, 1970 [H. Res. 1151, waiving points of order against H.R. 18515].

§ 23.4 The previous question was rejected on a resolution reported from the Committee on Rules waiving points of order against a general appropriation bill, and the resolution was amended to permit consideration of an amendment to the bill containing legislation. 119 CONG. REC. 15273-81, 93d Cong. 1st Sess., May 10, 1973 [H. Res. 389, waiving points of order against provisions in H.R. 7447].

§ 23.5 Where a general appropriation bill is considered under the terms of a special resolution "waiving points of order against said bill," the waiver applies only to the provisions of the bill and not to amendments thereto. 112 CONG. REC. 27417, 89th Cong. 2d Sess., Oct. 18, 1966 [H.R. 18381].

§ 23.6 Where the House had adopted a resolution providing that "during the consideration of" a general appropriation bill "the provisions of clause 2 Rule XXI are hereby waived," the Chair ruled that the waiver extended only to provisions in the bill and not to amendments offered from the floor. 119 CONG. REC. 20981-83, 93d Cong. 1st Sess., June 22, 1973 [H.R. 8825].

§ 23.7 A resolution adopted by the House waiving points of order against legislation contained in a general appropriation bill does not apply to amendments offered to that bill from the floor. 119 CONG. REC. 15320, 93d Cong. 1st Sess., May 10, 1973 [H.R. 7447]; 119 CONG. REC. 22379, 93d Cong. 1st Sess., June 29, 1973 [H.R. 8916].

§ 23.8 Legislative language in a general appropriation bill which is permitted to remain therein because of a waiver of points of order may be perfected by germane amendment, but such an amendment may not add additional legislation. 119 CONG. REC. 21388, 21389, 93d Cong. 1st Sess., June 26, 1973 [H.R. 8877].

§ 23.9 To an amendment containing legislation but permitted to be offered to a general appropriation bill pursuant to a resolution waiving points of order against that amendment, an amendment adding additional legislation to that permitted to remain was ruled out in violation of clause 2 Rule XXI. 119 CONG. REC. 22352, 22362, 93d Cong. 1st Sess., June 29, 1973 [H.R. 9055].

§ 23.10 Unauthorized items in a general appropriation bill being considered under a special rule waiving all points of order may be perfected by germane amendment, but such procedure does not permit the offering of amendments adding further unauthorized items of appropriation. 117 CONG. REC. 45487, 92d Cong. 1st Sess., Dec. 8, 1971 [H.R. 12067].

§ 23.11 Where an unauthorized appropriation is permitted to remain in a general appropriation bill by a resolution waiving points of order, an amendment merely changing that amount and not adding legislative language is in order. 121 CONG. REC. 31058, 31059, 94th Cong. 1st Sess., Oct. 1, 1975 [H.R. 9861]. Likewise, where an unauthorized appropriation is permitted to remain in a general appropriation bill by failure to raise or by waiver of a point of order, an amendment merely changing that amount and not adding legislative language or earmarking separate funds for another unauthorized purpose is in order. 123 CONG. REC. 17940-42, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7557]. On the other hand, while an unauthorized amount permitted to remain in a general appropriation bill may be increased by amendment, an amendment which specifically earmarks that increase for a separate unauthorized project is in violation of Rule XXI clause 2. Thus, an amendment not only increasing an unauthorized figure which has been permitted to remain in a general appropriation bill but also directing that such increase be utilized for a particular purpose was ruled out where the bill authorizing that expenditure had passed the House but had not

yet become law. 122 CONG. REC. 19304, 94th Cong. 2d Sess., June 18, 1976 [H.R. 14239]. Similarly, an unauthorized item in a general appropriation bill being permitted to remain by a special rule waiving points of order, that figure may be perfected but may not be changed by an amendment substituting funds for a different unauthorized purpose. 124 CONG. REC. 24712, 95th Cong. 2d Sess., Aug. 7, 1978 [H.R. 13635]. In this instance, for an item in a general appropriation bill containing funds for a nuclear aircraft carrier program, against which points of order had been waived for failure of the authorization bill to be enacted into law, a substitute amendment striking out those funds and inserting unauthorized funds for a conventional-powered aircraft carrier was ruled out under Rule XXI clause 2, as unprotected by the waiver against the bill.

§ 23.12 Where by special rule the House waives points of order against portions of a general appropriation bill which are unauthorized by law, and the bill passes the House with those provisions included therein and goes to conference, the conferees may report back their agreement to those provisions even though they remain unauthorized, since waiver of points of order under clause 2 Rule XXI carries over to the consideration of the same provisions when the conference report is before the House. 115 CONG. REC. 40445-48, 91st Cong. 1st Sess., Dec. 20, 1969 [H. Rept. No. 91-779 on H.R. 15149, appropriations for foreign assistance, fiscal 1970].

§ 23.13 Where an appropriation bill is considered in the House under a rule waiving points of order against a provision therein which is unauthorized by law, and the Senate then amends the unauthorized provision, reducing the sum of money involved and striking out a portion of the language, conferees may (without violating the provisions of clause 2 Rule XX) agree to a sum between the two and restore the House language. 115 CONG. REC. 40445-48, 91st Cong. 1st Sess., Dec. 20, 1969 [H. Rept. No. 91-779 on H.R. 15149, appropriations for foreign assistance, fiscal 1970].

§ 23.14 A resolution was reported from the Committee on Rules, waiving points of order against unauthorized items or legislative provisions contained in a general appropriation bill. 120 CONG. REC. 37390, 93d Cong. 2d Sess., Nov. 26, 1974 [H. Res. 1469, waiving points of order against provisions in H.R. 17468]; 120 CONG. REC. 12392, 12393, 93d Cong. 2d Sess., Apr. 30, 1974 [H. Res. 1071, waiving points of order against certain provisions in H.R. 14434]; 120 CONG. REC. 19819, 93d Cong. 2d Sess., June 19, 1974 [H. Res. 1183, waiving points of order against reappropriations and other provisions in H.R. 15405 for failure to comply with Rule XXI clauses 2 and 5]; 121 CONG. REC. 20932, 94th Cong. 1st Sess., June 26, 1975 [H. Res. 564, waiving points of order during consideration of H.R. 8121]. In 1977, the House adopted a resolution waiving points of order against certain provisions in a general appropriation bill containing legislation and unauthorized items in violation of Rule XXI clause 2, and reappropriations of unexpended balances in violation of Rule XXI clause 6. 123 CONG. REC. 20235, 20236, 95th Cong. 1st Sess., June 22, 1977 [H. Res. 649, waiving points of order against provisions of H.R. 7797].

§ 23.15 A resolution was reported from the Committee on Rules waiving all points of order against consideration (in the House as in Committee of the Whole) of a joint resolution making continuing appropriations. 120 CONG. REC. 40858, 93d Cong. 2d Sess., Dec. 18, 1974 [H. Res. 1515, providing for consideration of H.J. Res. 1178].

§ 23.16 The House adopted a resolution waiving points of order under Rule XXI clause 2 and under Rule XXI clause 6 except with respect to a designated provision within a paragraph, and providing that a point of order, if sustained against the designated pro-

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vision, apply only to that provision and not to the entire paragraph in which it appeared. 123 CONG. REC. 20706, 95th Cong. 1st Sess., June 24, 1977 [H. Res. 655, waiving points of order against H.R. 7933].

Chapter 26

Legislation in Appropriation Bills

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A. INTRODUCTORY

§ 1. In General; the Rule Against Inclusion of Legislation

§ 1.1 The prohibition against inclusion of legislation in general appropriation bills is provided for by House rule. It states: "Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures. . . ." (Clause 2 Rule XXI.) Under this rule, language in an appropriation bill changing existing law is legislation and not in order. 105 CONG. REC. 12125, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978]. In 1975, the House amended Rule XXI by adding clause 3, requiring that reports from the Committee on Appropriations on general appropriation bills contain a description of the effect of provisions changing the application of existing law. H. Res. 988, 93d Cong., effective Jan. 3, 1975.

§ 1.2 *Note:* The rule against legislation in appropriation bills is limited to general appropriation bills; thus, a joint resolution continuing appropriations for government agencies pending enactment of the regular appropriation bills, which is not a "general appropriation bill" as it does not provide appropriations on an annual basis, is not subject to clause 2 Rule XXI prohibitions against legislative language. 113 CONG. REC. 26370, 90th Cong. 1st Sess., Sept. 21, 1967.

§ 1.3 *Note:* The provision of the rule forbidding in any general appropriation bill a "provision changing existing law" is construed to mean the enactment of law where none exists, or a proposition for repeal of existing law. Existing law may be repeated verbatim in an appropriation bill, but the slightest change of the text causes it to be ruled out.

§ 1.4 A point of order has been raised against an amendment to a general appropriation bill which incorporated by reference the provisions of an existing law. 109 CONG. REC. 19258-60, 88th Cong. 1st Sess., Oct. 10, 1963 [H.R. 8747]. And in 1976, a paragraph in a general appropriation bill containing funds for the Corporation for Public Broadcasting to be available "in accordance with the provisions of titles VI and VII of the Civil Rights Act of 1964" was ruled out as legislation in violation of Rule XXI clause 2, where it could not be shown that the corporation was already subject to all of the provisions of that law and thus required to perform all of the functions thereunder. 122 CONG. REC. 20414, 20415, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232].

§ 1.5 To a bill appropriating emergency funds for the President, an amendment to make the provisions of another section of the bill [which contained legislation subject to a point of order] applicable to the appropriation was held to be legislation. 105 CONG. REC. 9006, 9011, 86th Cong. 1st Sess., May 25, 1959 [H.R. 7176].

§ 1.6 An amendment merely striking out language in an appropriation bill was held not subject to a point of order as being legislation. 105 CONG. REC. 9013, 86th Cong. 1st Sess., May 25, 1959 [H.R. 7176].

§ 1.7 Language in a general appropriation bill prescribing that the provisions of a House-passed resolution "shall be the permanent law with respect thereto" was conceded to be legislation in violation of clause 2 Rule XXI and was ruled out on a point of order. 117 CONG. REC. 18039, 92d Cong. 1st Sess., June 4, 1971 [H.R. 8825].

§ 1.8 It is in order in a general appropriation bill to include language descriptive of authority provided in law for the operation of government corporations and agencies funded in the bill so long as the description is precise

and does not change that authority in any respect. 119 CONG. REC. 19843, 19844, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619]. However, a proviso bestowing new legal authority on a government official is legislation on an appropriation bill and not in order. 118 CONG. REC. 19900, 92d Cong. 2d Sess., June 7, 1972; 119 CONG. REC. 20068, 93d Cong. 1st Sess., June 18, 1973; 123 CONG. REC. 29612, 95th Cong. 1st Sess., Sept. 16, 1977.

§ 1.9 Language in a general appropriation bill requiring that the mandatory funding levels prescribed by existing law shall be effective during the fiscal year was ruled out as legislation, in violation of clause 2 Rule XXI, on the theory that if the language were an exact restatement of the law it was unnecessary and that its inclusion in the appropriation act indicated that it must have a legislative effect beyond that in existing law. 116 CONG. REC. 4019, 91st Cong. 2d Sess., Feb. 19, 1970 [H.R. 15931].

§ 1.10 When part of a paragraph is subject to be stricken on a point of order as being legislation, the entire paragraph is also subject to a point of order. 106 CONG. REC. 10032, 86th Cong. 2d Sess., May 11, 1960 [H.R. 12117]; 107 CONG. REC. 19726, 87th Cong. 1st Sess., Sept. 15, 1961 [H.R. 9169]. A point of order, if sustained against a portion of a paragraph containing legislation in an appropriation bill, is sufficient to cause the entire paragraph to be stricken, even if the remainder of the paragraph is authorized. 123 CONG. REC. 17922, 17923, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7552]. Similarly, if any portion of an amendment to an appropriation bill constitutes legislation, the entire amendment is ruled out of order. 124 CONG. REC. 24708, 95th Cong. 2d Sess., Aug. 7, 1978 [H.R. 13635].

§ 1.11 The Chair strictly interprets the provisions of clause 2 of Rule XXI, prohibiting amendments to general appropriation bills which change existing law; and if a proposed limitation on the use of funds goes beyond the *traditionally permissible objects of a limitation*, as for example restricting discretion in the timing of expenditure of funds rather than restricting their use for a specific object or purpose, the Chair is constrained to rule that the amendment is legislation failing a convincing argument by the proponent showing that the amendment does not change existing law. 126 CONG. REC. p....., 96th Cong. 2d Sess., July 28, 1980 [H.R. 7631]. The proponent of an amendment, against which a point of order has been raised on the ground that it constitutes legislation on an appropriation bill, has the burden of proving that the amendment does not change existing law. 121 CONG. REC. 23239, 94th Cong. 1st Sess., July 17, 1975 [H.R. 8597]; 126 CONG. REC. Rec. p. ....., 96th Cong. 2d Sess., July 28, 1980 [H.R. 7631]. The Chair will sustain the point of order if the proponents of the amendment are unable to demonstrate conclusively that the duties imposed on federal officials by the provision are already required of them by existing law. 123 CONG. REC. 19364, 95th Cong. 1st Sess., June 16, 1977 [H.R. 7555]. Likewise, the burden is on the proponent of an amendment to a general appropriation bill to prove that language offered under the guise of a limitation does not require new determinations by federal officials not already required by existing law. 122 CONG. REC. 18667, 94th Cong. 2d Sess., June 16, 1976 [H.R. 14237].

§ 1.12 Language in a general appropriation bill waiving the provisions of existing law was held to constitute legislation where the law being waived did not specifically permit exceptions therefrom to be contained in appropriation bills. 121 CONG. REC. 36271, 94th Cong. 1st Sess., Nov. 13, 1975 [H.R. 10647, supplemental appropriations, fiscal 1976].

§ 1.13 A motion to recommit a general appropriation bill with instructions may not propose an amendment containing legislation. 122 CONG. REC. 28883, 28884, 94th Cong. 2d Sess., Sept. 1, 1976 [H.R. 14238]. In this instance, a

motion to recommit the legislative branch appropriation bill with instructions to report it back forthwith with an amendment providing, *inter alia,* a criminal penalty for perjury for improper vouchering of expenditures of funds contained in the bill, was conceded to contain legislation in violation of Rule XXI clause 2, and was ruled out on a point of order.

§ 1.14 The fact that a legislative provision has been carried in general appropriation bills in the past does not protect that provision from a timely point of order under Rule XXI clause 2. 123 CONG. REC. 19698, 19699, 95th Cong. 1st Sess., June 17, 1977 [H.R. 7555].

§ 1.15 A point of order against an amendment as legislation on a general appropriation bill must be determined in relation to the bill as modified as a consequence of rulings on prior points of order. 124 CONG. REC.17647, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934].

§ 1.16 A Senate amendment to a general appropriation bill containing legislation reported from conference in disagreement may be amended in the House by a germane amendment even though the proposed amendment is also legislative. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 2, 1979 [H.R. 4388].

§ 1.17 An amendment to a general appropriation bill requiring the allocation of funds in a manner contrary to a formula in existing law having been ruled out of order as legislation during consideration of that bill in Committee of the Whole, a motion to recommit the conference report on that bill with instructions to add similar legislation to a Senate amendment reported in disagreement was ruled out of order. 119 CONG. REC. 36847, 93d Cong. 1st Sess., Nov. 13, 1973 [Conf. Rept. on H.R. 8877].

§ 1.18 Rule XXI clause 2 prohibits an amendment to a general appropriation bill if the amendment changes existing law, including court interpretations of statutory law. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 19, 1980 [H.R. 7583].

§ 2. Effect of Special Rule Authorizing Inclusion of Legislation; Waivers

§ 2.1 Where a general appropriation bill containing legislative provisions is being considered under a procedure waiving all points of order against the bill, amendments which add further legislation are not in order. 117 CONG. REC. 45495, 92d Cong. 1st Sess., Dec. 8, 1971 [H.R. 12067].

§ 2.2 While legislation permitted to remain in a general appropriation bill, by a special rule waiving points of order, may be perfected by a limitation, it is not in order to add additional legislation by way of amendment. 120 CONG. REC. 19716, 19717, 93d Cong. 2d Sess., June 18, 1974 [H.R. 15405].

§ 2.3 A legislative provision in a general appropriation bill, permitted to remain by failure to raise a point of order, may be perfected by germane amendment; but such amendment, if it adds further legislation, may be ruled out in violation of Rule XXI clause 2. 121 CONG. REC. 24369, 24370, 94th Cong. 1st Sess., July 23, 1975 [H.R. 8773]; 123 CONG. REC. 18402, 18403, 95th Cong. 1st Sess., June 10, 1977 [H.R. 7556]. For example, where a paragraph containing legislation in a general appropriation bill is permitted to remain by failure to make a point of order, an amendment striking that paragraph and inserting the identical legislative language may be offered, but not if it adds new legislation. 122 CONG. REC. 19279, 94th Cong. 2d Sess., June 18, 1976 [H.R. 14239]. While an amendment to a general appropriation bill may not add further legislation to that permitted to remain in the bill, the amendment is not subject to a point of order if containing, verbatim, a legislative provision al-

ready contained in the bill. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 27, 1980 [H.R. 7998].

§ 2.4 A legislative provision in a general appropriation bill, not subject to a point of order under clause 2 Rule XXI because the House had adopted a resolution waiving points of order against the bill, may be perfected by germane amendment. 113 CONG. REC. 32886, 90th Cong. 1st Sess., Nov. 16, 1967 [H.R. 13893]; 115 CONG. REC. 13271, 91st Cong. 1st Sess., May 21, 1969 [H.R. 11400]. But such amendment may not add additional legislation. 113 CONG. REC. 32966, 90th Cong. 1st Sess., Nov. 17, 1967 [H.R. 13893]. While an unauthorized item permitted to remain in a general appropriation bill by a waiver of points of order may be changed by amendment, an increase in that figure may not be accompanied by legislative language directing certain expenditures. 122 CONG. REC. 19297, 94th Cong. 2d Sess., June 18, 1976 [H.R. 14239]. See 113 CONG. REC. 32968, 90th Cong. 1st Sess., Nov. 17, 1967 [H.R. 13893], where, to a provision in the foreign aid appropriation bill which prohibited aid to the United Arab Republic unless the President determined it to be in the national interest, an amendment curtailing assistance under "this or any predecessor Act" until Israel made reparations for an attack on an American vessel was held to constitute additional legislation and thus ruled out on a point of order.

§ 2.5 Where a legislative provision in a general appropriation bill is permitted to remain by the adoption by the House of a resolution waiving points of order, and where there is pending an amendment in the form of a limitation to that provision, it is in order to offer an amendment to such amendment which provides a germane exception from the limitation and which does not constitute additional legislation. 116 CONG. REC. 14569-71, 91st Cong. 2d Sess., May 7, 1970 [H.R. 17399].

§ 2.6 Legislation in an appropriation bill may be subject to a point of order under clause 2 Rule XXI, but if not challenged it becomes permanent law if it is permanent in its language and nature. 110 CONG. REC. 11422, 88th Cong. 2d Sess., May 20, 1964 [H.R. 11202], where language in a previous appropriation act providing that "hereafter such sums . . . as may be approved by the Congress shall be available [to increase domestic consumption of farm commodities]," was held to be permanent authorizing legislation capable of supporting subsequent appropriations therefor.

§ 2.7 For a legislative amendment to a general appropriation bill directing the National Park Service to lease certain land at fair market rental value, a substitute prohibiting the use of funds in the bill for lease of that property by the National Park Service to concessioners was held germane and a negative limitation on the use of funds which did not add legislation to that which had been permitted to remain in the original amendment. 122 CONG. REC. 20548–50, 94th Cong. 2d Sess., June 25, 1976 [H.R. 14231].

§ 2.8 The Committee on Rules, having reported a resolution which did not contain a waiver of Rule XXI clause 2 against certain legislative sections in a general appropriation bill, subsequently reported and called up a second special rule containing those waivers, after the adoption of which the first resolution was laid on the table. 124 CONG. REC. 23454, 95th Cong. 2d Sess., July 31, 1978 [H. Res. 1247].

§ 3. Transfer of Funds; Funds in Other or Prior Acts

§ 3.1 A provision in an appropriation bill permitting transfers of sums appropriated therein from one subhead to another in the same enactment was held not to constitute legislation.

105 CONG. REC. 12131, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978].

§ 3.2 Language in a supplemental appropriation bill which is applicable to funds appropriated in another act constitutes legislation and is not in order. 105 CONG. REC. 12132, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978].

§ 3.3 An amendment to a general appropriation bill in the form of a limitation which is applicable also to funds appropriated in other acts is legislation and not in order. 119 CONG. REC. 27291, 27292, 93d Cong. 1st Sess., Aug. 1, 1973. See also 117 CONG. REC. 22442, 92d Cong. 1st Sess., June 28, 1971 [H.R. 9271], where an amendment to a general appropriation bill providing that "no part of any appropriation contained in this or any other Act shall be available" to pay the salary of any federal officer or employee in or outside the U.S. Postal Service taking certain actions was ruled out as legislation in violation of clause 2 Rule XXI, since the limitation contained therein was not confined to funds in, and to persons covered by, the bill. Similarly, in the 95th Congress, an amendment to a public works appropriation bill providing that "funds appropriated or otherwise made available" for a public works project shall be limited to a certain use was ruled out as legislation. 124 CONG. REC. 12831, 95th Cong. 2d Sess., June 15, 1978 [H.R. 12923].

§ 3.4 A limitation on a general appropriation bill must be confined to funds in the bill and may not extend to funds made available in other acts. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 5, 1979 [H.R. 4473]. Accordingly, a section of a general appropriation bill proposing to restrict the availability of funds in that bill or in any other act was ruled out as legislation in violation of Rule XXI clause 2. 120 CONG. REC. 21044, 21045, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544].

§ 3.5 While it is in order on a general appropriation bill to provide funds for a portion of eligible recipients while negatively prohibiting their availability for another category of recipients, the limitation must be confined to funds in the bill and cannot affect funds contained in another law. 120 CONG. REC. 21670-72, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580, Labor, HEW appropriations, fiscal 1975].

§ 3.6 An amendment to an appropriation bill proposing the transfer of funds previously appropriated in another appropriation bill is legislation. 105 CONG. REC. 5102, 86th Cong. 1st Sess., Mar. 24, 1959 [H.R. 5916].

§ 3.7 Language in an appropriation bill permitting any appropriation available to the Post Office Department for the current year to be transferred to any other such appropriation was ruled out as legislation. Also ruled out as legislation was a similar amendment which required the reporting of all such transfers to the Committee on Appropriations. 111 CONG. REC. 6869, 89th Cong. 1st Sess., Apr. 5, 1965 [H.R. 7060].

§ 3.8 Language in an appropriation bill providing funds for the General Services Administration and specifying that they should be available, along with funds from prior appropriation acts, without regard for certain provisions of law and ratifying prior expenditures for certain purposes, was conceded to be legislation and was ruled out on a point of order. 108 CONG. REC. 14998, 87th Cong. 2d Sess., July 30, 1962 [H.R. 12711].

§ 3.9 An amendment to a supplemental appropriation bill, proposing to repeal a provision of a prior appropriation act and having the effect of changing restrictions on the use of funds under that prior act, was held to be legislation and was ruled out as in violation of clause 2 Rule XXI. 117 CONG. REC. 44316, 92d Cong. 1st Sess., Dec. 2, 1971 [H.R. 11955].

§ 3.10 A limitation in an appropriation bill having become law, a provision in a subsequent appropriation bill for that fiscal year seeking to change or waive that limitation may be ruled out on a point of order. 106 CONG. REC. 17899, 86th Cong. 2d Sess., Aug. 26, 1960 [H.R. 12740]; 107 CONG. REC. 19728, 87th Cong. 1st Sess., Sept. 15, 1961 [H.R. 9169]; 111 CONG. REC. 7128, 89th Cong. 1st Sess., Apr. 6, 1965 [H.R. 7091].

§ 3.11 A provision in an appropriation bill changing the dollar limitation on a project and transferring previously appropriated funds from one project to another was conceded to be legislation and was ruled out on a point of order. 106 CONG. REC. 17899, 86th Cong. 2d Sess., Aug. 26, 1960 [H.R. 12740].

§ 3.12 A provision in a general appropriation bill directing the President to "assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961 shall be used for projects for economic or technical assistance to the Government of Cuba so long as Cuba is governed by the Castro regime," was ruled out as legislation [constituting a directive to the President and not confined to the funds carried in the bill]. 116 CONG. REC. 18395, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 3.13 A provision in a general appropriation bill permitting reimbursement (or advance transfer) of funds therein between federal agencies for purposes authorized by law is in order as a direction to the reimbursing agency as to the manner in which such funds are to be expended—where existing law permits the reimbursing agency to requisition services of other federal agencies. 120 CONG. REC. 20592, 20593, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]. In this instance, language authorizing the Environmental Protection Agency to transfer funds to other federal agencies for certain services rendered to the EPA was held not to change provisions of existing law permitting reimbursements between agencies where the Committee on Appropriations cited statutory authority for such interagency agreements.

§ 3.14 A paragraph in a general appropriation bill containing funds for the official residence of the Vice President and permitting advances, repayments, or transfers of those funds to other departments or agencies to carry out those activities (where existing law authorized appropriations only to the General Services Administration) was conceded to change existing law and was ruled out in violation of Rule XXI clause 2. 122 CONG. REC. 17854, 94th Cong. 2d Sess., June 14, 1976 [H.R. 14261].

§ 3.15 A paragraph in a general appropriations bill authorizing the transfer of funds for allowances and expenses with the approval of the Committee on Appropriations was conceded to constitute legislation in violation of Rule XXI clause 2 and was stricken from the bill on a point of order. 123 CONG. REC. 7747, 95th Cong. 1st Sess., March 16, 1977 [H.R. 4877].

§ 3.16 A paragraph in a general appropriation bill providing for advances, repayments, and transfers from the appropriation therein to any department or agency was ruled out in violation of Rule XXI clause 2 as constituting legislation on an appropriation bill. 123 CONG. REC. 17922, 17923, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7552].

§ 3.17 A paragraph in a general appropriations bill (not protected by a special rule waiving points of order) rescinding certain previously appropriated funds and characterizing the rescission as "terminating the International Solar Polar Mission" was conceded to be legislation and was ruled out on a point of order. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 18, 1980 [H.R. 7542].

§ 4. Funds for Excessive or Indefinite Amounts

§ 4.1 Language in an appropriation bill providing funds for the Joint Committee on Defense Production in excess of the amount authorized by law was conceded to be legislation and ruled out on a point of order. 110 CONG. REC. 7640, 88th Cong. 2d Sess., Apr. 10, 1964 [H.R. 10723].

§ 4.2 A provision in an appropriation bill providing funds for the Joint Committee on Reduction of Nonessential Federal Expenditures in excess of the amount authorized by law was ruled out as legislation on an appropriation bill. 110 CONG. REC. 7636, 88th Cong. 2d Sess., Apr. 10, 1964 [H.R. 10723].

§ 4.3 A provision in a general appropriation bill making available indefinite sums from the Southwest Power Administration revolving fund to insure continued electric service and use of transmission facilities was ruled out as legislation in violation of clause 2 Rule XXI where existing law provided that a definite amount must be specified for that purpose in annual appropriation bills. 118 CONG. REC. 22428, 92d Cong. 2d Sess., June 26, 1972 [H.R. 15586].

§ 5. Special Funds in the Treasury

§ 5.1 The appropriation of funds held in trust in the Treasury is legislation and not in order on an appropriation bill. Thus, the language in an appropriation bill appropriating funds in the Federal Aid Highway Trust Fund for expenses of forest roads and trails was held to be legislation and not in order where no authorization existed for the expenditure from the Highway Trust Fund for those proposed purposes. 106 CONG. REC. 2348, 86th Cong. 2d Sess., Feb. 9, 1960 [H.R. 10234].

§ 5.2 Language in an appropriation bill providing that funds borrowed from the Treasury by the Commodity Credit Corporation shall not bear interest to the extent that the CCC incurs unreimbursed losses, was conceded to be legislation and ruled out on a point of order. 110 CONG. REC. 11426, 88th Cong. 2d Sess., May 20, 1964 [H.R. 11202].

§ 5.3 Where the authorizing legislation provided (1) that a program should be financed through sale of notes issued by the Secretary of Commerce, and (2) further authorized the Secretary of the Treasury to purchase such notes, using, as a public debt transaction, the proceeds from the sale of securities issued under the Second Liberty Bond Act, a provision in an appropriation bill providing a direct appropriation, in lieu of the treasury financing, was conceded to be legislation and was ruled out on a point of order. 107 CONG. REC. 19726, 87th Cong. 1st Sess., Sept. 15, 1961 [H.R. 9169].

§ 5.4 The appropriation of funds held in trust in the Treasury for a new purpose, not authorized by law, is legislation and not in order on an appropriation bill. 105 CONG. REC. 9351, 86th Cong. 1st Sess., May 28, 1959 [H.R. 7349], where language in an appropriation bill appropriating funds in the Federal Aid Highway Trust Fund was held to be legislation and not in order.

§ 6. Distribution of Funds; Allocation by Formula

§ 6.1 It is not in order in a general appropriation bill to direct that certain funds therein shall be distributed without regard to the provisions of the authorizing legislation. 118 CONG. REC. 21131, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417].

§ 6.2 Language in an appropriation bill changing the formula for determining the allotment of funds appropriated therein from that authorized by law was ruled out as legis-

lation on an appropriation bill. 106 CONG. REC. 6862, 86th Cong. 2d Sess., Mar. 29, 1960 [H.R. 11390]. Similarly, a paragraph in a general appropriation bill reallocating funds contained in a prior appropriation act was conceded to change the allocation formula in existing law in violation of Rule XXI clause 2 and was ruled out on a point of order. 122 CONG. REC. 10762, 94th Cong. 2d Sess., Apr. 13, 1976 [H.R. 13172]. *Note:* The point of order that the paragraph also constituted a reappropriation of unexpended balances in violation of Rule XXI clause 6 would also have been valid.

§ 6.3 To a supplemental appropriation bill, an amendment providing "an additional amount" for hospitals which have begun construction under the Hill-Burton Act by a specified date was held in order, since the total amount was still below the total authorized, and since the appropriation of "an additional amount" did not have the effect of changing the apportionment formula carried in the basic Hill-Burton Act. But an amendment making funds available for 35 specific hospitals, itemized individually and by states, was held to change the apportionment formula for hospital construction funds in the basic act and to constitute legislation on an appropriation bill in violation of clause 2 Rule XXI. 116 CONG. REC. 14566, 91st Cong. 2d Sess., May 7, 1970 [H.R. 17399].

§ 6.4 To a paragraph in an appropriation bill containing funds for liquidation of contract obligations for homeownership and rental housing assistance, an amendment providing that total payments required by such contracts in any fiscal year shall be increased by a certain amount was ruled out as legislation in violation of clause 2 Rule XXI. 117 CONG. REC. 14464, 92d Cong. 1st Sess., May 11, 1971 [H.R. 8190].

§ 6.5 An amendment to a general appropriation bill requiring the allocation of funds in a manner contrary to a formula in existing law was ruled out of order as legislation in violation of clause 2 Rule XXI during consideration of that bill in Committee of the Whole. 119 CONG. REC. 21388, 21389, 93d Cong. 1st Sess., June 26, 1973 [H.R. 8877]. In this instance, where language in the bill provided that payments shall be "not less than" those in the preceding fiscal year, an amendment adding other factors to this apportionment formula was held to add additional legislation.

§ 6.6 Where existing law establishes priorities to be followed by an executive official in the distribution of funds authorized thereby, an amendment to an appropriation bill requiring that those funds shall be distributed in accordance with such priorities may be regarded as constituting a stronger mandate as to the use of those funds and as a modification of the authorizing law, and therefore out of order. 118 CONG. REC. 21131, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417].

§ 6.7 A provision in a general appropriation bill requiring that the mandatory funding levels prescribed by existing law shall not be effective during the current fiscal year was conceded to change existing law and was ruled out as in violation of clause 2 Rule XXI. 116 CONG. REC. 25684, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515].

§ 6.8 An amendment to a general appropriation bill which mandates a distribution of funds therein in contravention of an allocation formula in existing law and which interferes with an executive official's discretionary authority under that law is in violation of Rule XXI clause 2. 121 CONG. REC. 6338, 6339, 94th Cong. 1st Sess., Mar. 12, 1975 [H.R. 4481, the Emergency Employment Appropriations Act of 1975], where existing law required allocation of 90 percent of appropriations for public service jobs in accordance with a distribution formula and permitted allotment of the remaining 10 percent at the discretion of an executive official, an amendment to a general appropriation bill requiring that a certain amount therein shall be available only to pro-

vide railroad maintenance jobs by contract with private employers was ruled out: (1) as not specifically authorized as a public service program; and (2) as directly changing the allocation formula and interfering with executive discretion contained in that law.

§ 6.9 While language directing a federal official to make a new loan would ordinarily constitute legislation unless repetitive of existing law, it may be construed as a limitation on a general appropriation bill where existing law permits "limitations" on totals of such loans to be specified in appropriation acts. 123 CONG. REC. 34248, 34249, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 9375]. In this instance, an amendment to a general appropriation bill providing that the Commissioner of Education make new construction loans not to exceed a certain amount for the construction of two educational facilities was held to be a limitation and not to constitute legislation conferring new loan authority, since the existing law creating the revolving fund to finance such loans provided that the total of any loans from that fund in any fiscal year not exceed limitations (not merely amounts) specified in appropriation acts.

§ 6.10 An amendment to a general appropriation bill denying funds therein for a program at *less* than a certain amount constitutes legislation where existing law confers upon a federal official discretionary authority to determine minimum levels of expenditures. 124 CONG. REC. 21856, 95th Cong. 2d Sess., July 20, 1978 [H.R. 13467]. *Note:* In this instance, the applicable statute provided that the funding (for current school expenditures in cases of certain disasters) should not exceed "the amount which the Commissioner determines to be necessary to enable" the agency to make the level of education equivalent to that prior to the disaster, thereby conferring executive discretion to determine the amount of approved assistance, and not mandating a minimum amount of assistance for approval. See also § 6.8, supra.

§ 6.11 Where existing law provided that no funds for a certain program shall be available until funds for another program have been appropriated in the total amount authorized, language in a general appropriation bill making funds available notwithstanding insufficient funding for the other program was conceded to be legislation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 22, 1979 [H.R. 4394].

§ 6.12 In a paragraph of a general appropriation bill containing funds for the Bureau of Indian Affairs, a limitation denying the use of such funds as matching payments for programs funded under the Vocational Education Act (the "Snyder Act") was conceded to be legislation as denying expenditures mandatory under existing law, and was ruled out on a point of order. 124 CONG. REC. 18280, 95th Cong. 2d Sess., June 21, 1978 [H.R. 12932].

§ 6.13 It is not in order on a general appropriation bill to direct the availability of sufficient funds for the preparation of recommendations to Congress by a date certain where existing law does not mandate a deadline for reporting. In one instance, an amendment to the agriculture general appropriation bill, providing that sufficient funds shall be available for the Secretary of Agriculture to submit certain recommendations to Congress not later than a certain date, was conceded to be legislation and was ruled out on a point of order. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 29, 1980 [H.R. 7591].

§ 7. Funds "To Remain Available Until Expended"

§ 7.1 Language in a paragraph of a general appropriation bill providing that funds provided in that paragraph shall remain available until expended is generally conceded to be

legislation in violation of clause 2 Rule XXI unless the authorizing legislation permits such availability [since such language extends funds beyond the fiscal year covered by the bill]. 119 CONG. REC. 27288, 27289, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590]; 122 CONG. REC. 21021, 94th Cong. 2d Sess., June 28, 1976 [H.R. 14234]. See also 123 CONG. REC. 34248, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 9375], where a paragraph in a general appropriation bill containing a provision allowing the appropriation therein to remain available until expended, where the authorizing legislation did not provide such availability, was conceded to contain legislation and was stricken on a point of order.

§ 7.2 A provision in a paragraph of a general appropriation bill authorizing certain funds therein to remain available until expended whenever determined by the recipient to be necessary and without regard to provisions of law was conceded to be legislation in violation of clause 2 Rule XXI and was stricken from the bill. 119 CONG. REC. 27289, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590].

§ 7.3 To a paragraph in a general appropriation bill containing funds for salaries and expenses of the Office of Telecommunications Policy, an amendment increasing the amount and providing that the additional amount shall be available until expended for telecommunications studies and research was held to constitute legislation in violation of clause 2 Rule XXI. 119 CONG. REC. 27285, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590].

§ 7.4 An amendment to the Mutual Security Act appropriation bill to provide for the equivalent of $1.5 million in local currencies for hospital construction, to remain available until expended, was ruled out as legislation. 106 CONG. REC. 13133, 86th Cong. 2d Sess., June 17, 1960 [H.R. 12619].

§ 7.5 A paragraph in a general appropriation bill containing funds to enable the National Academy of Sciences to conduct an analysis of the Environmental Protection Agency under contract, which funds were to remain available until expended, was conceded to contain an appropriation unauthorized by law and legislation in violation of clause 2 Rule XXI and was ruled out on a point of order. 119 CONG. REC. 19852, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619].

§ 7.6 An appropriation for railroad research "to remain available until expended" was conceded to be legislation on an appropriation bill where the authorizing statute (Pub. L. No. 91-458) did not make those funds available beyond the fiscal year for which appropriated. 117 CONG. REC. 24913, 92d Cong. 1st Sess., July 14, 1971 [H.R. 9667].

§ 7.7 A provision in existing law that "funds available for parkways shall be available to finance the cost of reconstruction and relocation of Route 25E through the Cumberland Gap National Historical Park" was held not to authorize a direct appropriation on a general appropriation bill to remain available until expended, where the existing law governing the availability of all parkway funds (23 USC § 203) permitted only a two-year availability and contemplated that funds would only be appropriated to liquidate contractual obligations already incurred. 121 CONG. REC. 22005, 22006, 94th Cong. 1st Sess., July 10, 1975 [H.R. 8365].

§ 7.8 Under existing law (23 USC § 203) construction funds for parkways may be appropriated from the highway trust fund in order to liquidate contractual obligations, and, when appropriated, remain available for two years; an amendment to a general appropriation bill containing funds for a particular parkway project in advance of a contractual obligation and to remain available until expended may be ruled out in violation of Rule XXI clause 2, unless its proponent can cite a direct authorization without fiscal year limitation which

does not incorporate the funding mechanism for parkways generally. 121 CONG. REC. 22005, 22006, 94th Cong. 1st Sess., July 10, 1975 [H.R. 8365].

§ 7.9 Language in a supplemental appropriation bill providing funds [to collect and publish certain statistics on voting] to be available until the end of the next fiscal year, was conceded to be legislation and ruled out on a point of order. 111 CONG. REC. 7131, 89th Cong. 1st Sess., Apr. 6, 1965 [H.R. 7091].

§ 7.10 Although it is generally not in order in a general appropriation bill to require that funds therein shall be "available until expended" or beyond the fiscal year covered by the bill unless the authorizing law contains that provision, such language may be included where other existing law can be interpreted to permit that availability. Thus, a provision in a general appropriation bill that funds therein for the construction of the West front of the U.S. Capitol shall "remain available until expended" was held not to constitute legislation in violation of clause 2 Rule XXI where existing law (although not the authorization for that project) provided that funds for public building construction shall remain available until work was completed. 119 CONG. REC. 12781, 12782, 93d Cong. 1st Sess., Apr. 17, 1973 [H.R. 6691].

§ 7.11 Where existing law provided that moneys deposited into the Federal Buildings Fund shall be available for expenditure by the General Services Administration "for real property management . . . in such amounts as are specified in annual appropriations Acts without regard to fiscal year limitations," a paragraph in a general appropriation bill specifying the amount to be made available from that fund "during the current fiscal year" was held not to constitute a change in that law, which was interpreted merely to permit, and not to require, the annual appropriation bill to make those funds available until expended. 120 CONG. REC. 21040, 21041, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544].

§ 7.12 An amendment to a foreign assistance appropriation bill, appropriating funds for disaster relief in the Caribbean, providing that such funds remain available until expended and be available for expenditure and obligation notwithstanding a provision of existing law, was conceded to be unauthorized and to constitute legislation and was ruled out on a point of order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 6, 1979 [H.R. 4473].

§ 8. Funds for Unauthorized or Future Projects; Conditional Funding

§ 8.1 Language in an appropriation bill providing funds for projects not yet authorized by law is legislation and not in order. 107 CONG. REC. 18179, 87th Cong. 1st Sess., Sept. 5, 1961, where language specifying that the appropriation shall be effective only if authorizing legislation is thereafter passed was conceded to be legislation and was ruled out on a point of order. Similarly, a paragraph in a general appropriation bill containing funds for salaries and expenses of the Federal Energy Administration for programs not yet authorized by law, to be available upon the enactment of authorizing legislation, and authorizing the use of federal vehicles for vanpooling demonstration projects notwithstanding existing law, was conceded to be unauthorized and legislation and was ruled out in violation of Rule XXI clause 2. 123 CONG. REC. 34246, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 9375].

§ 8.2 Language in an appropriation bill providing aid in support of the Greater National Capitol Committee of the Metropolitan Washington Board of Trade [not authorized by law] was held to be legislation and not in order. 107

CONG. REC. 12404, 87th Cong. 1st Sess., July 12, 1961 [H.R. 8072].

§ 8.3 In a supplemental appropriation bill, a paragraph making an appropriation contingent upon the subsequent enactment of authorizing language is in violation of clause 2 Rule XXI. 113 CONG. REC. 11589, 90th Cong. 1st Sess., May 3, 1967 [H.R. 9481], where language in an appropriation bill providing an appropriation to be "effective only upon enactment into law of S. 1216" (the authorizing legislation) was conceded to be unauthorized and was ruled out on a point of order. Likewise, in the 95th Congress, a paragraph in a general appropriation bill making funds therein for the repair of the John F. Kennedy Center for the Performing Arts contingent upon enactment of authorizing legislation was conceded to be unauthorized and in violation of Rule XXI clause 2. 123 CONG. REC. 7737, 95th Cong. 1st Sess., Mar. 16, 1977 [H.R. 4877].

§ 8.4 An item of appropriation providing for an expenditure not previously authorized by law is not in order; and delaying the availability of the appropriation pending enactment of an authorization does not protect the item of appropriation against a point of order under clause 2 Rule XXI. 118 CONG. REC. 14455, 92d Cong. 2d Sess., Apr. 26, 1972 [H.R. 14582], where a paragraph in a general appropriation bill carrying an appropriation for an expenditure not yet authorized by law, and providing that the availability of the appropriation shall be contingent upon enactment of the authorizing law, was conceded to be in violation of the rules and was ruled out on a point of order.

§ 8.5 To a general appropriation bill providing funds for the rent-supplement program, an amendment to withhold obligation of those funds until funds previously appropriated (in another bill) for military housing construction are obligated, which placed an unrelated contingency on the use of funds in the bill, was ruled out as legislation. 112 CONG. REC. 7115, 7118, 89th Cong. 2d Sess., Mar. 29, 1966 [H.R. 14012].

§ 8.6 To a bill making appropriations for foreign aid, an amendment specifying that no funds made available therein may be expended until total governmental tax receipts exceed total expenditures was ruled out as legislation. 110 CONG. REC. 15582, 88th Cong. 2d Sess., July 1, 1964 [H.R. 11812].

§ 8.7 To a bill appropriating funds for the Mutual Security Act program, an amendment providing that none of the funds therein should be available for expenditure until Congress, in a concurrent resolution, makes a finding that the expenditure will not increase the public debt, was held to be legislation. 105 CONG. REC. 14520-24, 86th Cong. 1st Sess., July 28, 1959 [H.R. 8385].

§ 8.8 Language in an appropriation bill providing that funds for the construction of an additional Washington airport in Virginia "shall be available for an access road (a federal project) provided the State of Virginia makes available the balance of funds for the construction of the road" was conceded to be legislation and not in order. 105 CONG. REC. 12121, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978].

§ 8.9 While it is in order on a general appropriation bill to prohibit the availability of funds therein for a certain activity, that prohibition may not be made contingent upon the performance of a new affirmative duty on the part of a federal official. 119 CONG. REC. 12780, 12781, 93d Cong. 1st Sess., Apr. 17, 1973 [H.R. 6691], where a provision in a paragraph of a legislative appropriation bill prohibiting the availability of funds therein for the House Library unless and until arrangements had been made to phase out its operations by the end of fiscal 1974 was held to impose additional duties on the Clerk, and was ruled out as legislation in violation of clause 2 Rule XXI. Although the expenditure of funds in a

general appropriation bill may be made contingent upon the performance of a related requirement already imposed on a federal official by existing law, it is not in order to condition the use of such funds on the performance of a new duty not expressly required by law. 123 CONG. REC. 20597, 95th Cong. 1st Sess., June 23, 1977 [H.R. 7797].

§ 8.10 Language in an appropriation bill, making the availability of a portion of the funds appropriated therein contingent upon submission of plans by a commission and approval thereof by the Appropriations Committees of Congress, was ruled out as legislation in violation of clause 2 Rule XXI notwithstanding the fact that the law establishing the commission required it to submit periodic reports to the President and Congress. 116 CONG. REC. 14561, 91st Cong. 2d Sess., May 7, 1970 [H.R. 17399], holding that language in an appropriation bill which makes the availability of a portion of the funds appropriated therein contingent upon the submission of plans by a commission to committees of Congress for approval imposes additional duties upon federal officials and changes existing law in violation of clause 2 Rule XXI. Similarly, a paragraph in a general appropriation bill delaying the availability of funds in the bill until the Appropriations Committees of Congress were notified of certain information was ruled out as legislation where existing law did not require committee notification. 122 CONG. REC. 5533, 5534, 94th Cong. 2d Sess., Mar. 4, 1976 [H.R. 12203]. Where executive regulations promulgated pursuant to existing law required submission of certain agency reports on a quarterly basis, language in an amendment to a general appropriation bill making the availability of funds therein contingent upon the prior submission of that report was held to change the reporting requirement established pursuant to law and to constitute legislation in violation of clause 2 of Rule XXI. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 23, 1980 [H.R. 7584].

§ 8.11 In a paragraph in a general appropriation bill containing funds for the Commission on Government Procurement, a proviso withholding a portion of those funds until submission of a program and financial plan by the commission and approval thereof by the Committees on Appropriations of the House and Senate was conceded to be legislation on an appropriation bill and was ruled out on a point of order. 116 CONG. REC. 15174, 91st Cong. 2d Sess., May 12, 1970 [H.R. 17548].

§ 8.12 A paragraph in a foreign aid appropriation bill prohibiting the use of funds to pay for services performed abroad under contract "unless the President shall have promulgated" security regulations requiring certain investigations to be made, was ruled out as legislation in violation of clause 2 Rule XXI. 116 CONG. REC. 18405, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 8.13 To a general appropriation bill providing funds for an additional airport for the District of Columbia, an amendment providing that no part of the appropriation shall be used for land acquisition for access roads until the Administrator of the Federal Aviation Agency shall have held public hearings to allow local residents to express their views on the location of such roads, was held to be legislation and not in order. 105 CONG. REC. 12124, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978].

§ 8.14 An amendment to a supplemental appropriation bill, making the payment of certain contractual obligations of the United States contingent upon the adoption of a compromise agreement or upon litigation resolving the dispute, was held to provide a legislative condition and was ruled out on a point of order. 117 CONG. REC. 14468, 92d Cong. 1st Sess., May 11, 1971 [H.R. 8190].

§ 8.15 To a general appropriation bill containing funds not only for certain allowances for former President Nixon, but also for other

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departments and agencies, an amendment delaying the availability of all funds in the bill until Nixon has made restitution of a designated amount to the U.S. government was ruled out as not germane and as legislation, where that contingency was not related to the availability of other funds in the bill. 120 CONG. REC. 33620, 33621, 93d Cong. 2d Sess., Oct. 2, 1974 [H.R. 16900, supplemental appropriations, fiscal 1975]. *Note:* Most "unrelated contingency" precedents have actually been germaneness decisions rather than rulings that the language constitutes legislation, but in the instant case, the Chairman based his ruling in part on the argument that a delay in availability of funds contingent upon an unrelated event or act may constitute legislation.

§ 8.16 An amendment to a legislative branch appropriation bill denying the obligation or expenditure of certain funds contained therein unless such funds were subject to audit by the Comptroller General was ruled out of order as legislation where it appeared that the amendment was intended by its proponents to extend and strengthen the authority of the Comptroller General under law to audit legislative accounts. 124 CONG. REC. 17651, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12935]. *Note:* The amendment in this instance was ruled out of order when it appeared that it was intended by its proponents to work a change in the law and to require audits, rather than simply state a condition precedent for obligation and expenditure of the funds. A subsequent amendment which denied the use of funds not subject to audit "as provided by law" was offered and adopted.

§ 8.17 Where existing law confers discretionary authority on an executive agency to require submission of health and safety information by applicants for licenses, an amendment to a general appropriation bill restricting that discretion by requiring the submission of such information as a condition of receiving funds constitutes legislation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 18, 1979 [H.R. 4399].

§ 8.18 An amendment rendering an appropriation contingent on the making of recommendations that are not required by law is legislation violating Rule XXI clause 2. Thus, to an amendment to a general appropriation bill providing additional funds for the Community Services Administration, an amendment prohibiting the expenditure of funds in the pending paragraph for energy conservation services unless expended pursuant to recommendations by certain agencies was ruled out as legislation providing a condition precedent not required by existing law. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 27, 1979 [H.R. 4389].

§ 9. Funds for Employment, Salaries, or Related Benefits

§ 9.1 Language in a general appropriation bill providing for positions of employment in certain grades, in addition to the number authorized in existing law, was held to be legislation and not in order. 105 CONG. REC. 7904, 86th Cong. 1st Sess., May 11, 1959 [H.R. 7040].

§ 9.2 Where the Mutual Educational and Cultural Exchange Act of 1961 authorized the President to hire "not to exceed ten persons . . . to carry out the purposes of the Act", a provision in an appropriation bill providing funds for the hire of another person in excess of that number was conceded to be legislation and was ruled out on a point of order. 108 CONG. REC. 5932, 87th Cong. 2d Sess., Apr. 2, 1962 [H.R. 11038].

§ 9.3 To a general appropriation bill including funds for the federal judiciary and placing a limitation on the total salaries which may be paid by any judge for clerk and secretarial hire, a provision specifying that "without

regard to the aforementioned dollar limitations, each judge may appoint an additional law clerk at not to exceed GS 9" was ruled out as legislation. 114 CONG. REC. 15357, 90th Cong. 2d Sess., May 28, 1968 [H.R. 17522].

§ 9.4 It is not in order, in the guise of a limitation on a general appropriation bill, to deny the use of funds not contained in the bill to pay salaries of persons connected with agencies not covered by the bill. 117 CONG. REC. 22442, 92d Cong. 1st Sess., June 28, 1971 [H.R. 9271], where an amendment to a general appropriation bill providing that "no part of any appropriation contained in this or any other Act shall be available" to pay the salary of any federal officer or employee in or outside the U.S. Postal Service taking certain actions was ruled out as legislation in violation of clause 2 Rule XXI, since the limitation contained therein was not confined to funds in, and to persons covered by, the bill.

§ 9.5 A paragraph in a general appropriation bill containing funds for personal services for the President "without regard to provisions of law" regulating government employment and for entertainment expenses to be accounted for solely on the certificate of the President was conceded to contain legislation and stricken. 119 CONG. REC. 27286, 27287, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590]. In 1976, several paragraphs in a general appropriation bill containing funds for the White House staff, the President, or for personal services for him, without regard to existing law, were conceded to be in violation of Rule XXI clause 2, and stricken. 122 CONG. REC. 17852, 17853, 94th Cong. 2d Sess., June 14, 1976 [H.R. 14261]. Again, in 1977, paragraphs in a general appropriation bill containing funds for the White House office were conceded to be legislation or unauthorized in violation of Rule XXI clause 2. 123 CONG. REC. 17923, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7552].

§ 9.6 In a bill appropriating funds for United States participation in the New York World's Fair, a provision for a "United States Commissioner" for the fair, to be appointed by the President at a rate not to exceed $19,500 per annum, was conceded to be legislation and was ruled out on a point of order. 108 CONG. REC. 5932, 87th Cong. 2d Sess., Apr. 2, 1962 [H.R. 11038].

§ 9.7 A paragraph in a general appropriation bill for the District of Columbia permitting the use of funds in the bill by the Office of the Corporation Counsel to retain professional experts at rates fixed by the commissioner was conceded to be legislation and was ruled out in violation of clause 2 Rule XXI. 119 CONG. REC. 20068, 93d Cong. 1st Sess., June 18, 1973 [H.R. 8658].

§ 9.8 Language in a general appropriation bill changing the allowances and benefits due overseas employees of the Foreign Claims Settlement Commission was held to be legislation and not in order. 106 CONG. REC. 17899, 86th Cong. 2d Sess., Aug. 26, 1960 [H.R. 12740].

§ 9.9 Language in a general appropriation bill providing funds for an agency for entertainment expenses, to be expended upon the approval or authority of an executive branch official, has been held to be legislation and not in order (105 CONG. REC. 12126, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978]), even though the unauthorized appropriation of funds is phrased as a limitation. 106 CONG. REC. 6863, 6864, 86th Cong. 2d Sess., Mar. 29, 1960 [H.R. 11390].

§ 9.10 An amendment to a general appropriation bill containing a requirement that certain travel expenses be paid in accordance with government regulations was held to be legislation and was ruled out in violation of Rule XXI clause 2. 121 CONG. REC. 30981, 30982, 94th Cong. 1st Sess., Sept. 30, 1975 [H.R. 9861, Department of Defense appropriations, fiscal 1975].

§ 9.11 In a paragraph appropriating funds for general operating expenses for the District of Columbia, a proviso stating that certificates of the commissioner and chairman of the city council shall be sufficient vouchers for expenditure from that appropriation was conceded to be legislation and was ruled out on a point of order. 118 CONG. REC. 19900, 92d Cong. 2d Sess., June 7, 1972 [H.R. 15259]; 119 CONG. REC. 20068, 93d Cong. 1st Sess., June 18, 1973 [H.R. 8658].

§ 9.12 A paragraph in a general appropriation bill limiting the use of funds therein to pay certain employees above a certain rate of pay, but also containing a proviso "to assure" that the limitation did not reduce compensation in certain circumstances, was ruled out as legislation since it contained a legislative statement of purpose. 124 CONG. REC. 24970, 95th Cong. 2d Sess., Aug. 8, 1978 [H.R. 13635].

§ 9.13 A section in a general appropriations bill prohibiting the use of funds in the bill or in any other act providing appropriations for the fiscal year to pay federal salaries above a certain rate, and also providing how existing laws, rules, or regulations relating to federal benefits should be construed, was conceded to contain legislation and was ruled out on a point of order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 16, 1979 [H.R. 4393].

§ 10. Reduction or Retrenchment of Appropriation; the Holman Rule

§ 10.1 The so-called Holman rule states: "Nor shall any provision in any [general appropriation bill] or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill. . . ." Clause 2 Rule XXI. The provisions of Rule XXI clause 2 allowing legislation on an appropriation bill which retrenches expenditures (the Holman rule) apply only where an obvious reduction in expenditures is achieved, and not to limiting language unaccompanied by a reduction of funds in the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 16, 1979 [H.R. 4393].

§ 10.2 An amendment reducing an unauthorized amount in a general appropriation bill is in order as a retrenchment under Rule XXI clause 2. 121 CONG. REC. 31058, 31059, 94th Cong. 1st Sess., Oct. 1, 1975 [H.R. 9861, Department of Defense appropriations, fiscal 1976].

§ 10.3 To a general appropriation bill, an amendment providing that total appropriations therein be reduced by a specified amount was held in order (even though legislative in form) since it provided for a retrenchment of expenditures and thus came within the Holman rule. 112 CONG. REC. 7689, 89th Cong. 2d Sess., Apr. 5, 1966 [H.R. 14215], where an amendment providing that "appropriations made in this Act are hereby reduced" by a certain amount was held in order since it provided for a reduction of the amounts of money covered in the bill and was thus a valid exception to the prohibition [in clause 2 Rule XXI] against the inclusion of legislative language in an appropriation bill.

§ 10.4 An amendment to a general appropriation bill, proposing legislation which will not patently reduce expenditures, though providing for a reduction in the figures of an appropriation, is not in order under clause 2 Rule XXI [the Holman rule]. 105 CONG. REC. 9709, 9714, 86th Cong. 1st Sess., June 3, 1959 [H.R. 7454], where an amendment reducing the sum for military pay and allowances, but providing that the size of the Army must be maintained

at a figure in excess of that required by existing law, was held to be legislation and not in order as a retrenchment of expenditures.

§ 10.5 A reappropriation of unexpended balances, prohibited by clause 5 of Rule XXI, is not in order on a general appropriation bill under the guise of a Holman rule exception to Rule XXI clause 2. 112 CONG. REC. 27425, 89th Cong. 2d Sess., Oct. 18, 1966 [H.R. 18381], ruling that the payment from a fund already appropriated of a sum which would otherwise be charged against the Treasury is not a retrenchment of expenditures falling within the Holman rule exception to Rule XXI clause 2.

§ 10.6 An amendment to a general appropriation bill which denies the availability of funds in the bill to a certain category of recipients but which requires federal officials to make additional determinations not required by law as to the qualifications of recipients is legislation and is not a retrenchment of expenditures where it is not apparent that the prohibition will reduce the amounts covered by the bill. 119 CONG. REC. 21393, 12394, 93d Cong. 1st Sess., June 26, 1973 [H.R. 8877], where an amendment to an appropriation bill containing funds for "impacted school assistance" and prohibiting the use of funds in that bill for assistance "for children whose parents are employed on Federal property outside the school district of such agency" was held to impose the additional duty on federal officials of determining whether the parent was employed within the school district and was ruled out as legislation in violation of clause 2 Rule XXI. *Note:* With respect to the retrenchment point, the sponsor of the amendment defended the amendment as a retrenchment, but was unable to show that the funds not used as a result of the amendment would not otherwise be allocated to other classes of recipients.

§ 10.7 Where the Member making the point of order against an amendment (prohibiting the availability of White House office funds in a general appropriation bill to pay executive branch officials from other agencies detailed to that office) conceded that such personnel had been detailed and that the amendment if enacted would be applicable to them, the Chairman concluded that the amendment, though allegedly legislative in effect, constituted a retrenchment as a germane reduction of amounts covered by the bill and was in order under Rule XXI clause 2 (Holman rule). 121 CONG. REC. 23235, 94th Cong. 1st Sess., July 17, 1975 [H.R. 8597].

§ 10.8 An amendment reducing an amount in a general appropriation bill for the postal service and providing that no funds therein be used to implement special bulk third-class rates for political committees was held in order either as a negative limitation not specifically requiring new determinations (see § 11, infra) or as a retrenchment for expenditures under the Holman rule notwithstanding its legislative effect. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 13, 1979 [H.R. 4393].

§ 10.9 To an amendment retrenching expenditures in a general appropriation bill by reducing amounts therein and prohibiting their availability to particular recipients, an amendment lessening the amount of the reduction and also providing an exception from the limitation may be in order as a perfection of the retrenchment if funds contained in the bill remain reduced thereby. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 13, 1979 [H.R. 4393].

§ 10.10 The "Holman rule" is only applicable where language in a general appropriation bill "changes existing law" and also has the direct effect of retrenching the amount of funds in the bill; it is not applicable where the language does not constitute legislation but is merely a negative limitation citing, but not changing, existing law. 126 CONG. REC. p....., 96th Cong. 2d Sess., June 18, 1980 [H.R. 7542].

Note: In this instance, had the language of the amendment been considered legislation, the "Holman rule" exception would not have been applicable, since the reduction was not the necessary result of the language contained in the amendment.

§ 10.11 An amendment to a general appropriations bill may contain legislation if retrenching expenditures and if the legislation directly contributes to the retrenchment (under the "Holman rule"); and as long as the amendment calls for an obvious reduction at some point in time during the fiscal year, the amendment is in order, even if the reduction takes place later in that fiscal year in an amount actually determined at that subsequent time. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 30, 1980 [H.R. 7591]. In this instance, an amendment providing that the funds available for any agency in the bill be reduced to 80 percent of the funds appropriated minus the amount spent by such agency as of July 31 of the fiscal year, where the agency had obligated less than 80 percent of the funds available in the bill for the entire fiscal year by July 31 of such year, was held to constitute a retrenchment of funds covered by the bill and to therefore be in order although legislative in form.

§ 10.12 To an amendment in order under the Holman rule containing legislation but retrenching expenditures by a formula reduction for every agency funded by the bill, an amendment exempting from that reduction several specific programs does not add further legislation and is in order. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 30, 1980 [H.R. 7591].

§ 11. Imposing Duties on an Executive Official

§ 11.1 *Note:* The application of any limitation on an appropriation bill places some minimal extra duties on federal officials, who, if nothing else, must determine whether a particular use of funds falls within that prohibited by the limitation. But when an amendment, while curtailing certain uses of funds carried in the bill, explicitly places new duties on officers of the government or implicitly requires them to make investigations, compile evidence, or make judgments and determinations not otherwise required of them by law, then it assumes the character of legislation and is subject to a point of order. 115 CONG. REC. 21653, 21675, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111], ruling that the words "in order to overcome racial imbalance" in an amendment to an appropriation bill would impose additional duties on school officials. The extra duties which may invalidate an amendment as being "legislation" are duties not now required by law. The fact that they may be presently in effect on a voluntary basis does not protect an amendment from a point of order under clause 2 Rule XXI.

§ 11.2 Where an amendment, in the guise of a limitation, imposes additional determinations and duties on an executive, it may be ruled out as legislation on a general appropriation bill in violation of clause 2 Rule XXI. 112 CONG. REC. 24975, 89th Cong. 2d Sess., Oct. 4, 1966 [H.R. 18119], where to a general appropriation bill providing funds, *inter alia,* for federal highways, an amendment specifying that "no funds shall be used for any highway . . . which requires either unjustified or harmful non-conforming use of land" was held to be legislative in character since it imposed additional determinations and duties on a federal officer. It follows that an exception from a negative limitation on the use of funds in a general appropriation bill is not in order if it contains legislation requiring new executive determinations. 122 CONG. REC. 18681, 18682, 94th Cong. 2d Sess., June 16, 1976 [H.R. 14237]. Thus, a paragraph in a general appropriation bill containing not only a limitation on the use of funds in the bill but also providing an exception from that limitation upon determinations to be made by an executive official

was conceded to impose new affirmative duties on that official and was ruled out as legislation in violation of Rule XXI clause 2. 122 CONG. REC. 17865, 94th Cong. 2d Sess., June 14, 1976 [H.R. 14261]. However, an exception from a limitation in a general appropriation bill may include language precisely descriptive of authority provided in law so long as the exception only requires determinations already required by law and does not impose new duties on federal officials. 124 CONG. REC. 24250, 95th Cong. 2d Sess., Aug. 3, 1978 [H.R. 12931].

§ 11.3 It is not in order, in an appropriation bill, to impose additional duties on an executive officer or to make the appropriation contingent upon the performance of such duties. 114 CONG. REC. 15350, 90th Cong. 2d Sess., May 28, 1968 [H.R. 17522]. It follows that a limitation on an appropriation in a general appropriation bill may not be accompanied by provisions requiring affirmative duties not imposed by law in order to render the appropriation available. 124 CONG. REC. 16677, 95th Cong. 2d Sess., June 7, 1978 [H.R. 12929]. Thus, to a bill making appropriations for the Department of State, including an item for the U.S. contribution to various international organizations, an amendment providing that none of the funds might be expended until all other members of such organizations have met their financial obligations was ruled out as legislation which imposed a duty on a federal official to determine the extent of such obligations. 114 CONG. REC. 15350, 90th Cong. 2d Sess., May 28, 1968 [H.R. 17522].

§ 11.4 In interpreting the responsibilities imposed upon federal officials by an existing law to determine whether an amendment to a general appropriation bill constitutes a change in that law, the Chair may take into account whether federal court rulings have been uniform or finally dispositive of constitutional requirements relating to that law. 123 CONG. REC. 19365, 19366, 19373, 19374, 95th Cong. 1st Sess., June 16, 1977 [H.R. 7555]. In this instance, an amendment prohibiting the use of funds for an inspection conducted without a search warrant based on probable cause as authorized by law was held out of order as legislation since it imposed new affirmative duties to make applications to courts, not required by statutory law or uniformly required by the federal courts. See also Ch. 25 § 13, supra. In 1978, an amendment to a general appropriation bill denying use of funds for the Occupational Safety and Health Administration to conduct inspections of small businesses unless a warrant had been previously obtained was ruled out of order as legislation since existing law as interpreted by the U.S. Supreme Court required a warrant for such inspections only where the business under inspection insisted upon such a warrant. 124 CONG. REC. 16677, 95th Cong. 2d Sess., June 7, 1978 [H.R. 12929]. *Note:* As in the precedent cited above on this issue (June 16, 1977), the Chair took judicial notice of the status of the case law on the necessity for warrants for inspections.

§ 11.5 While it is not in order on a general appropriation bill to impose an affirmative duty on an executive official in addition to authority in existing law, an amendment describing an investigation which may be undertaken with funds in the bill at the discretion of an official upon whom existing law imposed a general investigative responsibility was held not to constitute legislation and not in violation of Rule XXI clause 2. 120 CONG. REC. 10208, 10209, 93d Cong. 2d Sess., Apr. 9, 1974 [H.R. 14012, legislative branch appropriations, fiscal 1975]. In this instance, to a general appropriation bill containing funds for the General Accounting Office, an amendment providing that part of those funds may be available for a GAO study of federal agencies' capabilities for making independent judgments on disposals of federally owned petroleum resources was held not to impose an affirmative duty on an executive official but to be merely descriptive of a

more inclusive investigative responsibility already imposed upon that official by existing law.

§ 11.6 Notwithstanding an existing law which directs an executive official to investigate all matters relating to public funds, it is not in order on a general appropriation bill to require that official to conduct an additional specific study on that general subject. 120 CONG. REC. 10205, 10206, 93d Cong. 2d Sess., Apr. 9, 1974 [H.R. 14012, legislative branch appropriations, fiscal 1975], where to a general appropriation bill containing funds for the General Accounting Office, an amendment directing that those funds shall be available for a GAO study of federal agencies' capabilities for making independent judgments on disposals of federally owned petroleum resources was held to impose an affirmative duty on an executive official in addition to the broad investigative responsibility already possessed by that official and was ruled out as legislation in violation of Rule XXI clause 2.

§ 11.7 An amendment to a general appropriation bill prohibiting the use of funds therein for abortions or abortion-related material and services, and defining "abortion" as the intentional destruction of unborn human life, was conceded to impose affirmative duties on officials administering the funds (requiring determinations of intent of recipients during abortion process) and was ruled out as legislation in violation of Rule XXI clause 2. 120 CONG. REC. 21687, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580, Departments of Labor, and HEW appropriations, fiscal 1975]. A paragraph in a general appropriation bill prohibiting the use of funds in the bill to perform abortions except where the mother's life would be endangered if the fetus were carried to term was ruled out of order as legislation, requiring federal officials to make new determinations and judgments not required by law as to the danger to the mother in each individual case. 123 CONG. REC. 19698, 19699, 95th Cong. 1st Sess., June 17, 1977 [H.R. 7555]. An amendment to the same bill prohibiting the use of funds to perform abortions, except where a physician has certified the abortion is necessary to save the life of the mother, was ruled out as legislation since some of the physicians required to make such certification would be federal officials not required under existing law to make such determinations and judgments. 123 CONG. REC. 19700, 95th Cong. 1st Sess., June 17, 1977 [H.R. 7555].

§ 11.8 An amendment adding a new section to the agriculture appropriation bill providing that no funds in the bill shall be used to prohibit individuals from growing or producing any crops or livestock except where such activities are undertaken in voluntary compliance with certain rules, regulations, or laws (as opposed to mandatory compliance) was held to impose on the Secretary the duty of determining intent and motive as to voluntariness and was ruled out as legislation. 121 CONG. REC. 22596, 22597, 94th Cong. 1st Sess., July 14, 1975 [H.R. 8561].

§ 11.9 While a provision in a general appropriation bill prohibiting the use of funds for certain designated purposes may be in order as a limitation, an amendment curtailing the use of the funds for those same purposes if the use is with a certain intent or motive requires new determinations by the officials administering the funds and is subject to a point of order as legislation. 115 CONG. REC. 21653, 21675, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111]. Similarly, an amendment to a general appropriations bill prohibiting the use of funds therein to pay rewards for providing information leading to the detection of any person violating the internal revenue laws, or conniving to do so, was ruled out as legislation since requiring the executive branch to determine what constitutes "conniving" at violating the law. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 13, 1979 [H.R. 4393].

§ 11.10 It is in order on a general appropriation bill to make the availability of funds therein contingent upon the implementation of a policy already enacted into law, providing the description of that policy is precise and does not impose additional duties on the officials responsible for its implementation. 117 CONG. REC. 41838, 92d Cong. 1st Sess., Nov. 17, 1971 [H.R. 11731], where an amendment prohibiting the use of funds in an appropriation bill after a date certain for military operations in Indochina if all American prisoners of war have been released and missing Americans accounted for by that date was held not to impose additional duties upon executive officials, who were already under the obligation imposed by a law to implement the policy described by the amendment. On the other hand, it is not in order in a general appropriation bill to limit the use of an appropriation and to provide how existing laws, rules, and regulations should be construed in carrying out the limitation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 16, 1979 [H.R. 4393].

§ 11.11 A provision in a paragraph of a general appropriation bill prohibiting the allocation of funds therein to any other government agency unless that agency head certified in writing the need for additional funds for certain programs was conceded to impose additional duties on federal officials and was ruled out as legislation. 119 CONG. REC. 27285, 27286, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590].

§ 11.12 Language in a general appropriation bill containing funds to be expended under direction of a federal official and "accounted for solely on his certificate" was conceded to be legislation and was ruled out in violation of Rule XXI clause 2, because existing law did not specifically permit that official to solely approve this particular type of expenditure. 120 CONG. REC. 19709, 93d Cong. 2d Sess., June 18, 1974 [H.R. 15405]. In the same Congress, a paragraph of a general appropriation bill containing such language was conceded to be legislation imposing duties not authorized by existing law and was ruled out in violation of Rule XXI clause 2. 120 CONG. REC. 27001, 93d Cong. 2d Sess., Aug. 6, 1974 [H.R. 16243].

§ 11.13 Where existing law authorized the availability of funds for the FBI for expenses of a confidential nature when certified by the Attorney General, language in a general appropriation bill containing funds for that purpose to be accounted for solely upon the certificate of the Attorney General was held in order as not constituting a change in existing law. 120 CONG. REC. 19715, 19716, 93d Cong. 2d Sess., June 18, 1974 [H.R. 15405]. In this instance, a statute declaring the Attorney General's certification of confidential FBI expenses to be sufficient was held to constitute authority in law to support the appropriation language, notwithstanding an earlier provision in the Budget and Accounting Act of 1921 that the Comptroller General review all government expenditures.

§ 11.14 An amendment to a general appropriation bill prohibiting the use of funds in that bill for any agency whenever the Congress or the Comptroller General requests certain information from that agency unless the agency head appears and supplies the requested information was held to impose additional duties on federal officials (to respond absent a subpena) and was ruled out as legislation. 119 CONG. REC. 27292, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590].

§ 11.15 To a paragraph of a general appropriation bill containing funds for emergency expenses of a confidential nature for the FBI upon sole certification by the Attorney General, an amendment requiring the furnishing of information on such expenses to the Comptroller General for his determination of their confidential nature was held to constitute legislation (imposing affirmative duty of furnishing information to GAO), and was ruled out in

violation of Rule XXI clause 2. 120 CONG. REC. 19716, 93d Cong. 2d Sess., June 18, 1974 [H.R. 15405].

§ 11.16 It is not in order on a general appropriation bill to condition the availability of funds to an executive agency upon the submission by that agency of reports not required by existing law. 120 CONG. REC. 12419, 93d Cong. 2d Sess., Apr. 30, 1974 [H.R. 14434]. In this instance, to a paragraph of a general appropriation bill containing funds for operating expenses of the Atomic Energy Commission, an amendment prohibiting the use of certain funds until 30 days after submission by the commission of planned costs to committees of Congress or until prior committee approval of those submitted plans was held to impose new affirmative duties on an executive agency and was ruled out as legislation.

§ 11.17 Language in a general appropriation bill "except as provided in existing law, funds provided in this Act shall be available only for the purposes for which they are appropriated" was ruled out as legislation when the Committee on Appropriations conceded that agencies funded by the bill would be required to examine extraneous documentary evidence—including hearings, transcripts—in addition to the language of the law itself to determine the purposes for which the funds had been appropriated. 120 CONG. REC. 20612, 20613, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472].

§ 11.18 A provision that funds in a general appropriation bill shall be available only for the purposes for which appropriated, except as provided in existing law, was construed by the Chairman to impose additional duties on executive agencies of determining from sources other than existing law the purposes for which funds may be expended, where another possible interpretation of that provision—that the funds be available for purposes other than those stated in the appropriation bill when permitted by existing law—would have rendered the provision redundant. 120 CONG. REC. 20612, 20613, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472, agriculture, environment, and consumer appropriations, fiscal 1975].

§ 11.19 To an amendment prohibiting the use of funds in a general appropriation bill for the support of combat activities in Cambodia by U.S. forces, an amendment delaying the effect of that limitation until either certain diplomatic negotiations have been held and reported to Congress or the reasons for not conducting such negotiations have been reported was held to impose additional duties on executive officials and was ruled out in violation of clause 2 Rule XXI. 119 CONG. REC. 50318, 50319, 93d Cong. 1st Sess., May 10, 1973 [H.R. 7447].

§ 11.20 To a bill making supplemental appropriations to various agencies, including an additional amount for assistance to refugees in the United States, an amendment specifying that no part of this particular appropriation shall be used until adequate screening procedures are established to prohibit the infiltration of Communists posing as Cuban refugees, imposed additional duties and was ruled out as legislation. 111 CONG. REC. 26991, 26993, 89th Cong. 1st Sess., Oct. 14, 1965 [H.R. 11588].

§ 11.21 It is not in order in a general appropriation bill under the guise of a limitation to affirmatively interfere with executive discretion by coupling a restriction on the payment of funds for salaries with a positive direction to perform certain duties in a particular manner. 120 CONG. REC. 34712, 34713, 93d Cong. 2d Sess., Oct. 9, 1974 [H.R. 16901, agriculture, environment, and consumer appropriations, fiscal 1975], where a paragraph of a general appropriation bill prohibiting the payment of funds therein for salaries of Federal Trade Commission personnel who use, publish, or permit access to certain information by designated methods—and also requiring the FTC to obtain that information "under existing practices and procedures or as changed by law"—was conceded to change existing law

by restricting the information-gathering practices of that agency and was ruled out in violation of Rule XXI clause 2. A similar paragraph of a general appropriation bill was conceded to change existing law by restricting the information-gathering practices of the FTC and was ruled out in violation of Rule XXI clause 2, at 122 CONG. REC. 19308, 94th Cong. 2d Sess., June 18, 1976 [H.R. 14239].

§ 11.22 A provision in a general appropriation bill requiring the performance of a duty by a federal official which he may at his discretion perform under existing law constitutes legislation in violation of Rule XXI clause 2. 124 CONG. REC. 24960, 95th Cong. 2d Sess., Aug. 8, 1978 [H.R. 13635]. And while it is in order on a general appropriation bill to limit the availability of funds therein for part of an authorized purpose, language which restricts not the funds but the discretionary authority of a federal official administering those funds may be ruled out as legislation. 120 CONG. REC. 20600, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]. In this instance, language in a paragraph of a general appropriation bill containing funds for the Federal Trade Commission for the purpose of collecting line-of-business data from ". . . not to exceed 250 firms" was conceded to directly interfere with the discretionary authority of the FTC—a restriction on the scope of the investigation rather than a limitation on availability of funds—and was ruled out in violation of Rule XXI clause 2. It follows that it is not in order on a general appropriation bill, even by language in the form of a limitation, to restrict not the use or amount of appropriated funds but the discretionary authority conferred by law to administer their expenditure, as for example the percentage of the funds which may be apportioned for expenditure within a certain period of time. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 25, 1980 [H.R. 7590]. In this instance, an amendment to a general appropriation bill, providing that "no amount in excess of 20 percent of any appropriation contained in this Act for any agency for any fiscal year may be obligated by such agency during the last two months of such fiscal year" was ruled out as legislation restricting a discretionary authority conferred by law, since 31 USC § 665(c)(3) specifically confers discretionary authority on the Office of Management and Budget to determine the time frame for distribution of funds within the total period for which appropriated.

§ 11.23 An amendment making certain expenditures by any government official subject to examination by the Comptroller General was held to impose additional duties on other executive officials and was ruled out in violation of clause 2 Rule XXI. 119 CONG. REC. 22379, 93d Cong. 1st Sess., June 29, 1973 [H.R. 8916].

§ 11.24 To several paragraphs in a general appropriation bill containing funds to remain available until expended and permitted to remain in the bill by adoption of a resolution waiving points of order, amendments requiring that those funds shall be obligated and expended were held to add additional legislation by imposing affirmative directions on executive officials, and were ruled out in violation of clause 2 Rule XXI. 119 CONG. REC. 20981-83, 93d Cong. 1st Sess., June 22, 1973 [H.R. 8825].

§ 11.25 To language in an appropriation bill authorizing an agency to promote a certain program, which legislation was permitted to remain by failure to make a point of order, an amendment requiring that agency to consult with designated parties in carrying out that program was held to add further duties not required by existing law and was ruled out as legislation. 121 CONG. REC. 24369, 24370, 94th Cong. 1st Sess., July 23, 1975 [H.R. 8773, Department of Interior appropriations, fiscal 1976].

§ 11.26 Where language in a general appropriation bill (permitted to remain because of a

waiver of points of order under clause 2 Rule XXI) provided that payments shall be "not less than" those in the preceding fiscal year, an amendment adding other mathematical factors which would have required new determinations and thus new duties was held to add additional legislation and was ruled out on a point of order. 119 CONG. REC. 21388, 21389, 93d Cong. 1st Sess., June 26, 1973 [H.R. 8877].

§ 11.27 To a paragraph of a general appropriation bill, containing funds for confidential expenses of the Drug Enforcement Administration upon sole certification by the Attorney General—which legislation was permitted to remain by a special rule waiving points of order—an amendment prohibiting such expenditures unless the Comptroller General is furnished information for his determination of their confidential nature was held to add further legislation to that permitted to remain and was ruled out in violation of Rule XXI clause 2, because it imposed an additional duty to furnish information. 120 CONG. REC. 19716, 19717, 93d Cong. 2d Sess., June 18, 1974 [H.R. 15405].

§ 11.28 An amendment to a general appropriation bill prohibiting the use of funds therein for a program under which farmers who plant a nonconserving crop on cotton allotment acres are eligible for federal set-aside payments was ruled out as legislation requiring federal officials to make new determinations of eligibility not required to be made by existing law. 122 CONG. REC. 18666, 18667, 94th Cong. 2d Sess., June 16, 1976 [H.R. 14237].

§ 11.29 A paragraph in a general appropriation bill prohibiting the availability of funds in the bill for procurement of certain foreign-made materials except where a federal official determined that satisfactory domestic-made materials were not available was ruled out as legislation in violation of Rule XXI clause 2. 122 CONG. REC. 19014, 94th Cong. 2d Sess., June 17, 1976 [H.R. 14262]. To the same effect, see 122 CONG. REC. 18666, 18667, 94th Cong. 2d Sess., June 16, 1976 [H.R. 14237].

§ 11.30 An amendment to a general appropriation bill directing the use of funds therein to assure full compliance with an existing law—the Occupational Safety and Health Act—with respect to a certain category of persons (congressional Members and staff) was held to restrict executive discretionary authority in law as to the use of those funds and was ruled out as legislation in violation of Rule XXI clause 2. 122 CONG. REC. 20370, 20371, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232].

§ 11.31 An amendment to a general appropriation bill which denies the availability of funds in the bill for the benefit of a certain category of recipients but which requires federal officials to make additional determinations not required by law as to the qualifications of those recipients is legislation. Accordingly, in a paragraph of a general appropriation bill containing funds for grants to states for unemployment compensation and services, a provision prohibiting the use of such funds for compensation to an individual refusing work paying at least the prevailing wage, after having received 26 weeks of unemployment compensation, was ruled out of order as legislation imposing new duties on federal officials to determine on an individual basis whether beneficiaries had refused to accept employment which paid a standard of wage different from that applied to some present recipients of federal unemployment benefits by existing law. 123 CONG. REC. 19362-64, 95th Cong. 1st Sess., June 16, 1977 [H.R. 7555]. In this instance, a provision prohibiting the use of funds for compensation to an individual refusing work paying either the minimum wage or the average unemployment benefit (whichever is higher) after having received 26 weeks of unemployment compensation was similarly ruled out as legislation.

§ 11.32 A provision in a general appropriation bill requiring new determinations by federal officials is legislation and subject to a point of order, regardless of whether or not private or state officials administering the federal funds in question routinely make such determinations. 123 CONG. REC. 19699, 95th Cong. 1st Sess., June 17, 1977 [H.R. 7555].

§ 11.33 An amendment to a general appropriation bill prohibiting the use of funds therein for food stamps to a household whose principal wage earner is on strike on account of a labor dispute to which he or his organization is a party, except where the household was eligible for and participating in the food stamp program immediately prior to the dispute, and except where a member of the household is subject to an employer's lockout, was held to impose new duties and require new investigations by executive branch officials and was ruled out as legislation. 123 CONG. REC. 20150-52, 95th Cong. 1st Sess., June 21, 1977 [H.R. 7558]. This precedent must be considered as overruling language to the contrary at 117 CONG. REC. 21671, 92 Cong. 1st Sess., June 23, 1971.

§ 11.34 An amendment to a general appropriation bill denying use of the funds therein for the Treasury Department to apply certain provisions of the Internal Revenue Code other than under audit practices, interpretations, regulations, and court decisions in effect on a prior date was ruled out of order as legislation since admittedly requiring the executive branch to follow laws no longer in effect in order to make the appropriation available. 124 CONG. REC. 16656, 95th Cong. 2d Sess., June 7, 1978 [H.R. 12930]. Similarly, it is not in order in a general appropriation bill to deny the use of funds for an executive agency to formulate or carry out regulations except for those in effect on a prior date, where the excepted regulations are no longer permitted to be formulated or enforced under the current state of the law. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 19, 1980 [H.R. 7583]. In this instance, an amendment to a general appropriation bill containing funds for the Internal Revenue Service, to deny use of funds therein to formulate or carry out any regulation which would cause loss of tax-exempt status to private religious schools, unless in effect prior to August 22, 1978, was ruled out of order as legislation, since a federal court had enjoined the IRS from applying the regulations in effect on August 22, 1978, and the amendment had the effect of requiring the IRS to apply interpretations of the Internal Revenue Code no longer in accordance with the law.

§ 11.35 A portion of a paragraph in a general appropriation bill denying the use of funds therein under the CHAMPUS program for reimbursement of health care providers pursuant to a certain formula which required determinations regarding local health costs was ruled out as legislation in violation of Rule XXI clause 2, where existing law did not impose a formula but merely authorized the issuance of regulations under which determinations and comparisions with local costs were discretionary, not mandatory. 124 CONG. REC. 24960, 95th Cong. 2d Sess., Aug. 8, 1978 [H.R. 13635].

§ 11.36 An amendment denying the use of funds for certain workplace visits by the Occupational Health and Safety Administration where the workplace had been inspected by a state agency within six months did not require new determinations by federal officials where existing law directed state agencies to inform federal officials of their activities. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 27, 1979 [H.R. 4389].

§ 11.37 An amendment to a general appropriation bill, prohibiting the use of funds in the bill for the Nuclear Regulatory Commission to issue nuclear powerplant operating licenses in any state which did not have a tested emer-

gency evacuation plan, was ruled out as legislation since requiring the commission to make a determination, not required by law, as to whether the plan had been tested by the state. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 18, 1979 [H.R. 4399].

§ 11.38 The burden of proof is on the proponent of an amendment to a general appropriation bill to show that a proposed executive determination is required by existing law, and the mere recitation that the determination is to be made pursuant to existing law and regulations, absent a citation to the law imposing that responsibility, is not sufficient to overcome a point of order that the amendment consitutes legislation. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 16, 1980 [H.R. 8105]. In this instance, to a proviso in a general appropriations bill denying the use of funds to pay price differentials on contracts made for the purpose of relieving economic dislocations, an amendment exempting from that prohibition contracts determined by the Secretary of the Army pursuant to existing laws and regulations as not to be inappropriate by reason of national security considerations was ruled out as legislation imposing new duties on the secretary, absent any showing of existing provisions of law requiring such a determination to be made.

§ 11.39 An amendment which does not limit or restrict the use or expenditure of funds in the bill, but which directs the way in which all provisions in the bill must be interpreted or construed, is legislation. Thus, an amendment to a general appropriations bill, providing that nothing in the act shall restrict the authority of the Secretary of Education to carry out the provisions of title VI of the Civil Rights Act of 1964, was ruled out as legislation. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 27, 1980 [H.R. 7998]. However, it has been held in order to except from the operation of a specific limitation on expenditures, certain of those expenditures which are authorized by law, by prohibiting a construction of the limitation in a way which would prevent compliance with that law. *House Rules and Manual* § 842b (97th Cong.).

§ 11.40 A restriction on the use of funds in a general appropriation bill which requires a federal official to make a substantive determination not required by any law applicable to his authority, thereby requiring new investigations not required by law, is legislation in violation of clause 2 of Rule XXI. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 20, 1980 [H.R. 7593]. In this instance, an amendment to a general appropriation bill prohibiting the use of funds therein for the General Services Administration to dispose of United States owned agricultural land declared surplus was ruled out as legislation.

§ 11.41 While it is not in order on a general appropriation bill to directly limit executive discretionary authority or to change entitlement benefits or contractual provisions established pursuant to law, it is permissible by a negative restriction to deny the availability of funds, although the resulting circumstances might suggest a change in the applicability of law. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 20, 1980 [H.R. 7593].

§ 11.42 While an amendment to a general appropriation bill may deny the use of funds for failing to carry out a responsibility imposed by law, the limitation may only apply to the exact activity required by law, and may not require additional duties of the executive branch. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 29, 1980 [H.R. 7591].

§ 11.43 The fact that a federal official may have been directed by executive order to consult another federal official prior to taking an action does not permit inclusion, in an amendment to a general appropriation bill, of language directing the official being consulted to himself make a new determination not specifically required by law. 126 CONG. REC. p.

....., 96th Cong. 2d Sess., July 22, 1980 [H.R. 7584].

§ 11.44 Although an amendment to a general appropriation bill may deny the use of funds therein for recipients lacking certain qualifications, such an amendment is legislation if requiring a federal official to subjectively evaluate the propriety or nature of individual conduct. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 16, 1980 [H.R. 8105]. In this instance, a section of a general appropriation bill denying the use of funds to pay salaries of federal employees convicted in federal, state, or local courts of inciting, promoting or carrying on a riot, or any group activity resulting in material damage to property or injury to persons, found to be in violation of federal, state, or local laws designed to protect persons or property in the community concerned, was ruled out as legislation imposing on federal officials new and subjective determinations as to material damage and the purpose of local jurisdictions in passing laws.

§ 11.45 Where executive regulations promulgated pursuant to existing law required submission of certain agency reports on a quarterly basis, language in an amendment to a general appropriation bill making the availability of funds therein contingent upon the prior submission of that report was held to change the reporting requirement established pursuant to law and to constitute legislation in violation of clause 2 of Rule XXI. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 23, 1980 [H.R. 7584].

§ 11.46 An amendment to a general appropriation bill denying the use of funds therein for a certain publication until there has been a review of all conclusions reached therein and a determination that they are factual, was ruled out as legislation imposing new affirmative duties on the executive branch. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 30, 1980 [H.R. 7591].

§ 11.47 To a general appropriation bill containing funds for emergency preparedness, an amendment prohibiting the use of those funds for the purchase of oil found to have originated in Libya was ruled out as legislation requiring the presentation of evidence of a purchased product. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 25, 1980 [H.R. 7631].

§ 11.48 Where existing law, 7 USC § 12(e), requires an agency to furnish certain information to congressional *committees* upon request, it is not in order on a general appropriation bill to make funding for that agency contingent upon its furnishing information upon request to *subcommittees.* 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 29, 1980 [H.R. 7591].

§ 12. — On the President

§ 12.1 Language in a general appropriation bill requiring the President to report to Congress at least semiannually on certain expenditures of funds under the bill, and detailing the type of justification the President must make in that report, was held to impose new affirmative duties on the President and was ruled out on a point of order. 116 CONG. REC. 18405, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 12.2 In a paragraph of a foreign aid appropriation bill providing funds for military assistance, language prohibiting use of those funds for the furnishing of sophisticated weapons systems to certain countries "unless the President determines that the furnishing of such weapons systems is important to the national security of the United States and reports within thirty days each such determination to the Congress" was ruled out as legislation on an appropriation bill in violation of clause 2 Rule XXI. 116 CONG. REC. 18400, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 12.3 Language in a general appropriation bill directing the President to withhold economic assistance to certain countries in an amount equivalent to that spent by those countries for "sophisticated military equipment, unless the President determines" and reports to Congress that such expenditures are important to the security of the United States was ruled out as legislation in violation of clause 2 Rule XXI. 116 CONG. REC. 18408, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867]. Similarly, to a general appropriation bill making appropriations for foreign assistance, an amendment limiting the amount of such funds available for certain forms of assistance to a designated country, unless the President submits a report to Congress stating that such country is making substantial progress in the observance of internationally recognized human rights, was held to be legislation imposing new duties on the President where the reporting requirement in existing law was limited to security assistance programs and required different determinations from those required in the amendment. 123 CONG. REC. 20596, 20597, 95th Cong. 1st Sess., June 23, 1977 [H.R. 7797].

§ 12.4 A provision in a foreign aid appropriation bill prohibiting assistance under that bill for the United Arab Republic "unless the President determines that such availability is essential to the national interest of the United States" was held to be legislation and was ruled out on a point of order. 116 CONG. REC. 18406, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 12.5 Language in a general appropriation bill prohibiting the furnishing of economic assistance under the Foreign Assistance Act of 1961 to Communist nations, unless the President determines that withholding such aid would jeopardize the national security, reports that determination to Congress and publishes it in the Federal Register, was held similar but not identical to the prohibition contained in the authorizing legislation and was therefore ruled out as imposing additional duties on the President. 116 CONG. REC. 18405, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 12.6 Language in a general appropriation bill which specifies that no part of funds therein shall be available to nations providing assistance to the Castro regime in Cuba "unless the President determines that withholding . . . would be contrary to the national interest" was held to impose additional burdens on the chief executive and was ruled out as legislation. 108 CONG. REC. 20181, 87th Cong. 2d Sess., Sept. 20, 1962 [H.R. 13175].

§ 12.7 A provision in a general appropriation bill directing the President to "assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961 shall be used for projects for economic or technical assistance to the Government of Cuba so long as Cuba is governed by the Castro regime," was ruled out as legislation [constituting a directive to the President and not confined to the funds carried in the bill]. 116 CONG. REC. 18395, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 12.8 To a general appropriation bill containing funds for foreign assistance, an amendment restricting the availability of funds therein for certain countries until the President reports to Congress his determination that such country does not deny or impose more than nominal restrictions on the right of its citizens to emigrate was held to impose additional duties on the President and was ruled out as legislation in violation of clause 2 Rule XXI. 119 CONG. REC. 40871, 93d Cong. 1st Sess., Dec. 11, 1973 [H.R. 11771].

§ 12.9 A provision in a foreign aid appropriation bill requiring the President to consider a recipient country's military procurement policies before furnishing assistance under that act or under the Agricultural Trade Development and Assistance Act was held to require additional duties on the part of the President and

was ruled out on a point of order. 116 CONG. REC. 18408, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 12.10 An amendment to the foreign aid appropriation bill, requiring the President to suspend the use of funds under that act to assist countries which he determines have not taken appropriate steps to prevent the unlawful entry of narcotic drugs into the United States, and continuing such suspension until the President determines that such countries have taken the appropriate preventive steps, was, by unanimous consent, withdrawn after a point of order was reserved against it. 116 CONG. REC. 18413, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 12.11 A section in a general appropriation bill expressing congressional opposition to the admission of China to the United Nations and, in the event of such seating, requesting the President to inform and submit recommendations to the Congress on its foreign policy implications, was ruled out as legislation imposing affirmative duties on the President. 116 CONG. REC. 18402, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 12.12 To an amendment to the Department of Defense appropriation bill, prohibiting the use of funds in that act in excess of a specified amount for support of U.S. Armed Forces in Europe, an amendment providing an exception from that limitation if the President determines that the Soviet Union has not made comparable withdrawals of forces from the Mideast following the reduction of U.S. troop strength in Europe was held to impose additional affirmative duties upon the President and was ruled out in violation of clause 2 Rule XXI. 116 CONG. REC. 35822, 35826, 91st Cong. 2d Sess., Oct. 8, 1970 [H.R. 19590].

§ 12.13 To a bill making appropriations for the Department of Agriculture and including funds for the Commodity Credit Corporation, an amendment prohibiting the use of funds for export subsidies on commodities being sold to Communist countries except when the President determines such transaction to be in the public interest and reports his finding to the Congress, imposed extra duties on the President and was ruled out as legislation. 110 CONG. REC. 11434, 88th Cong. 2d Sess., May 20, 1964 [H.R. 11202].

§ 12.14 Language in a general appropriation bill which authorizes the President to determine amounts of funds to be available in the administration of a program, although such funds are required to be distributed by application of an allotment formula in existing law, confers on the President a discretionary authority to make determinations in contravention of that law, and is therefore legislation on an appropriation bill and subject to a point of order. 116 CONG. REC. 4019, 91st Cong. 2d Sess., Feb. 19, 1970 [H.R. 15931].

§ 12.15 A paragraph in a general appropriation bill expressing the sense of Congress that the President should enter into certain negotiations with foreign governments and requiring the President to report to Congress thereon was ruled out as legislation imposing new duties in violation of Rule XXI clause 2. 121 CONG. REC. 6570, 94th Cong. 1st Sess., Mar. 13, 1975 [H.R. 4592].

§ 12.16 An amendment adding a new section to the agriculture appropriation bill prohibiting the use of funds contained in the bill to supply commodities to India until the President certifies that civil liberties have been restored in that country was held to impose an additional duty on the President and ruled out as legislation. 121 CONG. REC. 22608, 94th Cong. 1st Sess., July 14, 1975 [H.R. 8561].

§ 12.17 A paragraph in a general appropriation bill prohibiting certain uses of funds in the bill unless the President promulgates regulations to restrict recipients of the funds was held to impose a new regulatory authority on the executive and was ruled out as legislation

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in violation of Rule XXI clause 2. 122 CONG. REC. 5533, 94th Cong. 2d Sess., Mar. 4, 1976 [H.R. 12203].

B. LEGISLATION AFFECTING PARTICULAR AGENCIES, OFFICERS, OR PROGRAMS

§ 13. In General

§ 13.1 Language in an appropriation bill providing additional court facilities and waiving provisions of existing law where this is "determined to be necessary by the judicial council of the circuit" was conceded to be legislation and was ruled out on a point of order. 107 CONG. REC. 19729, 87th Cong. 1st Sess., Sept. 15, 1961 [H.R. 9169, making supplemental appropriations, fiscal 1962].

§ 13.2 A paragraph in a general appropriation bill providing that certain FBI funds may be used to facilitate the exchange of identification records with bank officials and with state and local governments for employment and licensing purposes if approved by the Attorney General was conceded to be legislation in violation of clause 2 Rule XXI. 118 CONG. REC. 18030, 92d Cong. 2d Sess., May 18, 1972 [H.R. 14989].

§ 13.3 A provision in a general appropriation bill giving the Secretary of State authority to extend foreign service reserve appointments through another year—thus changing the Secretary's authority under existing law—was conceded to be legislation and was ruled out on a point of order. 115 CONG. REC. 15353, 91st Cong. 1st Sess., May 28, 1969 [H.R. 17522].

§ 13.4 Provisions in a paragraph of a general appropriation bill (1) authorizing the General Services Administration to acquire leasehold interests in property; (2) removing limitations imposed by law on the value of surplus strategic materials which may be transferred without reimbursement to the national stockpile; and (3) authorizing materials in certain stockpiles and inventories to be available without reimbursement for transfer to contractors as payment for expenses, were conceded to be legislation and were stricken from the bill. 119 CONG. REC. 27288, 27289, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590].

§ 13.5 Language in a general appropriation bill authorizing the treatment of indigent patients in hospitals in the District of Columbia, and setting maximum rates to be charged for such treatment, was conceded to be legislation and ruled out on a point of order. 108 CONG. REC. 11731, 87th Cong. 2d Sess., June 26, 1962 [H.R. 12276].

§ 13.6 In determining whether a restriction on the use of funds in a general appropriation bill constitutes legislation in violation of Rule XXI clause 2, the Chair must assess the impact of that language on all of the agencies funded in the bill to which the limitation applies in order to discern whether new duties would be imposed on any federal official so affected. 124 CONG. REC. 17674, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934, State, Justice, Commerce, and Judiciary appropriations, fiscal 1979]. In this instance, to a general appropriation bill from which all funds for the Federal Trade Commission had been stricken as unauthorized, an amendment prohibiting the use of all funds in the bill to limit advertising of (1) food products containing ingredients found safe by the Food and Drug Administration or considered "generally recognized as safe," or not containing ingredients, found unsafe by the FDA, and (2) toys not declared hazardous or unsafe by the Consumer Product Safety Commission, was held to impose new duties upon the Federal Communications Commission (another agency funded by the bill) to evaluate findings of other federal agencies—

duties not imposed upon the FCC by existing law.

§ 13.7 Language in a general appropriation bill to provide for Indian health activities "including . . . temporary services at rates not to exceed $100 per diem . . . when authorized by the Surgeon General" was held to be legislation and not in order. 106 CONG. REC. 6863, 86th Cong. 2d Sess., Mar. 29, 1960.

§ 13.8 Language in a general appropriation bill providing that funds for the construction of Indian health facilities could be expended "through the Department of Interior at the option" of the Secretary of the Department of Health, Education, and Welfare was held to be legislation and not in order. 106 CONG. REC. 6863, 86th Cong. 2d Sess., Mar. 29, 1960 [H.R. 11390].

§ 13.9 Language in a general appropriation bill making funds available for the District of Columbia Civil War Centennial Commission for expenses "by contract or otherwise, as determined by the Commissioners" was held to be legislation and not in order. 106 CONG. REC. 14086, 86th Cong. 2d Sess., June 23, 1960 [H.R. 12740].

§ 13.10 To a general appropriation bill providing funds, *inter alia,* for a national foundation on the arts, an amendment prohibiting payment of such funds to any person or organization which supports any action resulting in the destruction of a structure of historic or cultural significance [thus requiring the official administering the program to make certain new determinations], was held to impose additional duties and was ruled out as legislation. 112 CONG. REC. 7688, 89th Cong. 2d Sess., Apr. 5, 1966 [H.R. 14215].

§ 13.11 Provisions in a section of a general appropriation bill denying the use of funds to pay federal employees in a certain category and (1) declaring that an affidavit signed under that section "shall be considered prima facie evidence . . ." for certain purposes, (2) imposing penalties for making a false affidavit, and (3) making the section inapplicable to certain persons, were ruled out as legislation in violation of clause 2 Rule XXI. 119 CONG. REC. 29290, 29291, 93d Cong. 1st Sess., Aug. 1, 1973 [H.R. 9590].

§ 13.12 To a general appropriation bill containing funds for the Postal Service, an amendment to prohibit funds therein from being used to handle parcel post at less than attributable cost was ruled out as in violation of Rule XXI clause 2 when the proponent of the amendment failed to refute the point of order that its effect would directly interfere with the Postal Rate Commission's quasi-discretionary authority (contained in 39 USC §§ 3622 et seq.) to establish postal rates under guidelines in law. 121 CONG. REC. 23239, 94th Cong. 1st Sess., July 17, 1975 [H.R. 8597].

§ 13.13 A provision in an amendment to a general appropriation bill containing funds for a Federal Trade Commission's collection of line-of-business data, including data presently made available to the Bureau of Census, the Securities and Exchange Commission, and other government agencies where authorized by law, was held not to change existing law relating to agency authority for collection of such data. 120 CONG. REC. 20601, 20602, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472].

§ 13.14 An amendment to a general appropriation bill allowing the renewal, reissuance, or modification of export licenses referred to in existing law was conceded to contain legislation and was ruled out in violation of Rule XXI clause 2, where the existing law contained no provisions for the renewal or modification of such licenses. 123 CONG. REC. 35034, 95th Cong. 1st Sess., Oct. 25, 1977 [H.R. 9375].

§ 14. Agricultural Programs

§ 14.1 To a bill appropriating funds for the Department of Agriculture, including funds for farm program payments under the Agricultural Adjustment Act, an amendment repealing a section of that act was held to be legislation and was ruled out on a point of order. 115 CONG. REC. 14039, 14041, 91st Cong. 1st Sess., May 27, 1969 [H.R. 11612].

§ 14.2 A provision in a general appropriation bill providing funds for an agricultural project, for which funding had been authorized from the receipts of timber sales and not from appropriated funds, was ruled out as legislation in violation of clause 2 Rule XXI. 115 CONG. REC. 13754, 91st Cong. 1st Sess., May 26, 1969 [H.R. 11612].

§ 14.3 To a general appropriation bill, an amendment limiting the use of funds but at the same time providing definitions, new authorizations and imposing additional duties on the Secretary of Agriculture was ruled out as legislation. 107 CONG. REC. 9626, 87th Cong. 1st Sess., June 6, 1961 [H.R. 7444], where an amendment prohibiting price support payments to any individual in excess of $50,000 and providing that the Secretary of Agriculture should issue regulations as necessary to prevent the evasion of this limitation was held to impose additional duties on the Secretary and was thus ruled out as legislation.

§ 14.4 To a bill appropriating funds for the Department of Agriculture, including reimbursement of capital for the Commodity Credit Corporation, an amendment in the form of a limitation but placing restrictions on the corporation's authority and interferring with its statutory duty to carry out commitments under the price support and land retirement programs was ruled out as legislation. 113 CONG. REC. 14852, 90th Cong. 1st Sess., June 6, 1967 [H.R. 10509].

§ 14.5 To an agricultural appropriation bill, an amendment curtailing the use of funds therein for price support payments to any person in excess of $30,000 per year and providing that "for the purpose of this [amendment] the term person shall mean an individual, partnership, firm, joint stock company, etc." was ruled out as legislation. 111 CONG. REC. 11655, 89th Cong. 1st Sess., May 26, 1965 [H.R. 8370].

§ 14.6 An amendment to a general appropriation bill limiting the amount of farm program payments to a producer, even though the money for such payments was not carried in the pending bill, and requiring certain determinations to be made by the Secretary of Agriculture, was held to be legislation and was ruled out on a point of order. 115 CONG. REC. 13759, 91st Cong. 1st Sess., May 26, 1969 [H.R. 11612].

§ 14.7 Language in a general appropriation bill providing that the Department of Agriculture is "hereby authorized and directed to make such inspection of poultry as it deems essential" was held to be legislation and was ruled out on a point of order. 106 CONG. REC. 10032, 86th Cong. 2d Sess., May 11, 1960 [H.R. 12117].

§ 14.8 To an agricultural appropriation bill, including funds for the Commodity Credit Corporation, an amendment prohibiting the use of funds therein to pay storage charges on CCC-owned commodities, which charges have not been determined by competitive bidding, was held to impose additional duties on the corporation and was ruled out as legislation. 111 CONG. REC. 11654, 89th Cong. 1st Sess., May 26, 1965 [H.R. 8370].

§ 14.9 Language in a general appropriation bill providing funds for a celebration of the centennial of the establishment of the Department of Agriculture was held to be unauthorized by law and not in order. 107 CONG. REC.

9625, 87th Cong. 1st Sess., June 6, 1961 [H.R. 7444].

§ 14.10 A section in a general appropriation bill rendering provisions of law which restrict the employment of aliens inapplicable to employment under the Foreign Agricultural Service was conceded to change existing law and was ruled out as legislation. 120 CONG. REC. 34716, 93d Cong. 2d Sess., Oct. 9, 1974 [H.R. 16901].

§ 14.11 Where existing law, 7 USC § 12(e), requires the Commodities Exchange Commission to furnish to committees of Congress upon request certain information relating to commodities traders, an amendment to a general appropriation bill prohibiting the use of funds therein for denial by that commission of requests by congressional committees and subcommittees of any information (including but not limited to that specifically required to be furnished by law) was held to be legislation imposing new duties on executive officials to respond to subcommittee requests for a broadened category of information. Another amendment to the bill, prohibiting the use of funds therein for denial or requests by committees for any information in the commission's possession (including but not limited to that specifically required to be furnished upon request by law), was likewise held to be legislation imposing new duties on executive officials and was conceded to be in violation of clause 2 of Rule XXI. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 29, 1980 [H.R. 7591].

§ 15. Congressional Affairs

§ 15.1 To a legislative appropriation bill, an amendment prohibiting the use of funds provided therein for the House of Representatives or the Architect of the Capitol unless the expenditure has been audited and reported to Congress by the Comptroller General, was ruled out as legislation. 110 CONG. REC. 7642, 88th Cong. 2d Sess., Apr. 10, 1964 [H.R. 10723].

§ 15.2 An amendment to a general appropriation bill, changing the procedure for the employment of committee staff personnel and in effect altering the method of staff selection specified in the Legislative Reorganization Act of 1946, was held to be legislation and was ruled out on a point of order. 108 CONG. REC. 6353, 87th Cong. 2d Sess., Apr. 11, 1962 [H.R. 11151].

§ 15.3 A provision in a supplemental appropriation bill declaring that certain House resolutions [relating to Members' clerk-hire, e.g.] should be the permanent law with respect thereto, was ruled out as legislation. 110 CONG. REC. 22431, 88th Cong. 2d Sess., Sept. 22, 1964 [H.R. 12633].

§ 15.4 To a legislative appropriation bill, an amendment providing that the clerk-hire roll of each Member be increased by one employee was ruled out as legislation. 114 CONG. REC. 19093, 90th Cong. 2d Sess., June 27, 1968 [H.R. 18038].

§ 15.5 To an amendment to a general appropriation bill, an amendment providing that notwithstanding the provisions of any other law, the Constitution or court decisions, no Member of Congress shall refuse to respond to demands for information by executive agencies or private persons or groups was held to be legislation and was ruled out in violation of clause 2 Rule XXI. 118 CONG. REC. 22107, 92d Cong. 2d Sess., June 22, 1972 [H.R. 15585].

§ 15.6 A motion to recommit a legislative branch appropriation bill with instructions to report it with an amendment providing that the Clerk shall update daily his report on Members' and committee expenditures and that his report shall be available in a certain number of copies and include detailed information on job descriptions, employment loca-

tions, and blood relationship of Members and employees, was ruled out as legislation imposing new reporting responsibilities on the Clerk not already required by law [2 USC § 104(a)]. 122 CONG. REC. 28884, 28885, 94th Cong. 2d Sess., Sept. 1, 1976 [H.R. 14238].

§ 15.7 A paragraph in a legislative branch appropriations bill containing funds for the development of a temporary parking facility for the House, and containing a provision amending a prior supplemental appropriations act to authorize the Architect of the Capitol to develop a parking facility on grounds under the jurisdiction of the Architect, was conceded to contain legislation and was ruled out in violation of Rule XXI clause 2. 123 CONG. REC. 21402, 95th Cong. 1st Sess., June 29, 1977 [H.R. 7932].

§ 15.8 While an amendment to a general appropriation bill which has the direct effect of changing a rule of the House may be ruled out as legislation in violation of Rule XXI clause 2, an amendment which merely restricts the availability of funds in the bill for the implementation of one aspect of a discretionary authority conferred upon a House official by rule but which does not by its terms directly change that authority may be in order as a proper limitation. 124 CONG. REC. 17661, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12935, legislation branch appropriations, fiscal 1979]. In this instance, the House had adopted a resolution authorizing the Speaker to implement such system for broadcasting and telecasting House proceedings as he deemed appropriate, an amendment to the legislative branch appropriation bill prohibiting the use of funds therein to implement any system under which cameras were controlled by persons who were not House employees was held in order as a limitation which did not directly amend the rules of the House and which did not expressly interfere with the Speaker's discretionary authority.

§ 15.9 It is not in order on a general appropriation bill to require a congressional committee to promulgate regulations to limit the use for certain purposes of funds appropriated therein. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 13, 1979 [H.R. 4390]. In this instance, an amendment to the legislative branch general appropriations bill requiring the Committee on House Administration to promulgate rules to limit the amount of official mail sent by Members with the funds appropriated in the bill was ruled out as legislation.

§ 16. Educational Programs

§ 16.1 A provision in a general appropriation bill which changes the legislative formula governing allotment of certain funds to local educational agencies in federally affected areas was conceded to be legislation on an appropriation bill in violation of clause 2 Rule XXI. 116 CONG. REC. 4015, 91st Cong. 2d Sess., Feb. 19, 1970 [H.R. 15431].

§ 16.2 To a general appropriation bill including funds for educational programs authorized by law, an amendment denying the use of such funds until the Commissioner of Education makes an apportionment thereof contrary to the formula prescribed by existing law was held to impose additional duties on the commissioner and to change existing law and was thus ruled out as legislation. 114 CONG. REC. 18882, 18894, 90th Cong. 2d Sess., June 26, 1968 [H.R. 18037].

§ 16.3 To a bill making appropriations for the Department of Health, Education, and Welfare, including an appropriation for educationally deprived children, an amendment prohibiting the use of such funds until there is made available therefrom for certain local educational agencies an amount at least equal to that allotted in the preceding year was ruled out as legislation since it changed the apportionment formula in existing law. 114 CONG. REC.

18882, 18894, 90th Cong. 2d Sess., June 26, 1968 [H.R. 18037].

§ 16.4 Language in a general appropriation bill providing that grants to be paid to states for certain elementary and secondary school aid during fiscal 1973 shall not be less than amounts available for that purpose in the preceding fiscal year was conceded to change the ratable reduction formula in existing law and to impose new duties on executive officials (to determine new minimum amounts) and was ruled out on a point of order. 118 CONG. REC. 21104, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417].

§ 16.5 Language in a general appropriation bill providing that the amounts to be paid to state educational agencies for certain elementary and secondary school aid during fiscal 1971 shall not be more than amounts made available for those purposes during the preceding fiscal year, and providing that amounts for other categories of such aid in fiscal 1971 shall not be less than amounts available for that purpose in the preceding fiscal year, was held to change the ratable reduction formula in existing law and to impose new duties on an executive official, and was ruled out on a point of order. 117 CONG. REC. 10061, 92d Cong. 1st Sess., Apr. 7, 1971 [H.R. 7016].

§ 16.6 A provision in an amendment to a general appropriation bill denying the use of any funds for impacted school aid until the official allocating the funds makes an apportionment thereof contrary to the formula prescribed by existing law was held to impose additional duties upon that official, thus changing existing law and constituting legislation on an appropriation bill. 116 CONG. REC. 11676, 91st Cong. 2d Sess., Apr. 14, 1970 [H.R. 16916].

§ 16.7 Language in a general appropriation bill providing that grants to be paid to states for certain elementary and secondary school aid during fiscal 1976 shall not be less than amounts available for that purpose in the preceding fiscal year was conceded to change the ratable reduction formula in existing law and was ruled out as legislation in violation of Rule XXI clause 2. 121 CONG. REC. 10357, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 5901].

§ 16.8 A "hold harmless" proviso in the education division appropriation bill, the effect of which was to prevent states from receiving less in the next fiscal year than they had received in the current fiscal year, there being no similar provision in the authorizing legislation, was conceded to be legislation and ruled out. 121 CONG. REC. 10357, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 5901].

§ 16.9 Where existing law authorizing programs of higher education assistance provided that no payments for any fiscal year shall be made for a certain category (4) unless funds have been appropriated for three other student programs for that fiscal year, language in a general appropriation bill containing funds for category (4) which would remain available during a subsequent fiscal year for which no funds for categories 1-3 were provided was conceded to change the priority formula in the authorizing legislation and was ruled out in violation of Rule XXI clause 2. 120 CONG. REC. 21670-72, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580].

§ 16.10 An amendment to a general appropriation bill providing that no part of the funds therein may be used to force busing or attendance of students at a particular school in order to overcome racial imbalance as a condition precedent to obtaining federal funds was held to impose additional duties on federal officials and was ruled out as legislation. 115 CONG. REC. 21653, 21675, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111].

§ 16.11 To a general appropriation bill containing education funds for the Department of Health, Education, and Welfare, an amendment restricting their expenditure until the ef-

forts of that department to promote desegregation of public schools "are being applied with the same intensity, standards and sanctions in every region of the U.S." was held to impose new duties on the officials administering those funds to discern degrees of intensity and was ruled out as legislation in violation of Rule XXI clause 2. 120 CONG. REC. 33560, 93d Cong. 2d Sess., Oct. 2, 1974 [H.R. 16900, supplemental appropriations, fiscal 1975]. *Note:* The requirement of the amendment that uniform sanctions be imposed in every region of the United States also could have been construed as a change in law, since court decisions had imposed different legal sanctions to achieve school desegregation in different regions of the United States.

§ 16.12 An amendment providing that no part of the funds carried in a pending general appropriation bill may be used for financial assistance for students who have engaged in "conduct of a serious nature" contributing to "a substantial campus disruption" and who have used force or the threat thereof to prevent the pursuit of academic aims, was held to impose new duties of determination and judgment on federal officials and was ruled out as legislation. 115 CONG. REC. 21645, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111].

§ 16.13 To a general appropriation bill, an amendment providing that none of the funds therein may be used for financial assistance to students who have engaged in certain types of disruptive conduct, and including as a condition precedent to the termination of such assistance a requirement that the college or university at which such student is enrolled have initiated or completed a hearing procedure which is not dilatory, was held to impose additional duties on executive officers and was ruled out as legislation. 115 CONG. REC. 21633, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111].

§ 16.14 A provision in a general appropriation bill specifying that no funds therein shall be used for loans or grants to students at a university who have engaged in rioting and providing that the limitation shall not apply until the institution concerned "shall have had an opportunity to initiate proceedings as it deems appropriate but which are not dilatory" was held to impose additional burdens and duties on government executives and was ruled out as legislation. 115 CONG. REC. 21631, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111].

§ 16.15 In a paragraph of a general appropriation bill containing funds for higher education assistance, language restricting the availability of "amounts for basic opportunity grants" to full-time students in the first three years of college was held not to be confined to funds in the bill and was ruled out as legislation affecting amounts appropriated under other acts. 120 CONG. REC. 21670-72, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580].

§ 16.16 An amendment to a general appropriation bill containing funds for the legislative branch limiting the use of funds therein for the congressional student intern program, unless language in the resolution authorizing that program (subsequently enacted into permanent law) were construed to admit vocational students into the program, was held to be legislation because it altered the structure and construction of existing law. 123 CONG. REC. 21412, 21413, 95th Cong. 1st Sess., June 29, 1977 [H.R. 7932].

§ 17. Environmental Programs

§ 17.1 A paragraph in a general appropriation bill containing funds to enable the Environmental Protection Agency to test chemical substitutes to determine their harmful effect on humans and on the environment prior to restricting the use of a chemical was conceded to impose additional duties on federal officials and was ruled out on a point of order. 119

CONG. REC. 19851, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619].

§ 17.2 A paragraph in a general appropriation bill making funds available to the Administrator of the Environmental Protection Agency to establish an independent grant and contract review board to review the priorities of the agency and its award of contracts was conceded to be subject to a point of order and was ruled out as unauthorized by law. 117 CONG. REC. 21641, 92d Cong. 1st Sess., June 23, 1971 [H.R. 9270].

§ 17.3 Where existing law required the Environmental Protection Agency to submit statements on the environmental impact of its proposed actions, taking into consideration economic and technical factors, language in a general appropriation bill providing funds for the preparation of environmental impact statements and for separate statements on economic and technical considerations was conceded to be legislation but was, by unanimous consent, amended to delete the additional requirement and the point of order against the paragraph was then withdrawn. 119 CONG. REC. 19850, 19851, 93d Cong. 1st Sess., June 15, 1973 [H.R. 8619].

§ 17.4 A paragraph in a general appropriation bill containing funds to enable the Administrator of the Environmental Protection Agency to obtain reports as to the probable adverse effect on the economy, including employment and unemployment, in addition to reports required by law on the environmental impact of certain federal actions, and reappropriating funds generally available to the administrator for the preparation of such reports, was conceded to be unauthorized by law and was ruled out on a point of order. 117 CONG. REC. 21641, 92d Cong. 1st Sess., June 23, 1971 [H.R. 9270].

§ 17.5 For an amendment to a general appropriation bill prohibiting the use of funds in the bill for air traffic control in connection with civil supersonic aircraft at a certain airport unless such aircraft complied with noise standards already promulgated for subsonic aircraft (against which amendment no point of order had been raised), a substitute, whose only effect was to delete the term "supersonic" thereby broadening the prohibition to all civilian aircraft, was held in order as not adding legislation, no separate germaneness point of order having been raised. 123 CONG. REC. 17946, 17960, 95th Cong. 1st Sess., June 8, 1977 [H.R. 7557].

§ 17.6 A proviso in a general appropriation bill containing funds to carry out the Land and Water Conservation Act of 1965, changing the official designation of a national lakeshore, was conceded to constitute legislation and was ruled out in violation of Rule XXI clause 2. 123 CONG. REC. 18291, 95th Cong. 1st Sess., June 9, 1977 [H.R. 7636].

§ 18. Foreign Aid Programs; Foreign Affairs

§ 18.1 To a general appropriation bill making appropriations for foreign assistance, an amendment prohibiting the use of any funds carried in the bill for certain capital projects costing in excess of $1 million "until the head of the agency involved has received and considered a report, prepared by officials within the agency, on the justification and feasibility of such project" was held to impose additional duties and was ruled out as legislation. 113 CONG. REC. 32975, 90th Cong. 1st Sess., Nov. 17, 1967 [H.R. 13893].

§ 18.2 Where the Foreign Assistance Act of 1961 contained a prohibition against the furnishing of assistance to countries supplying or shipping certain items to North Vietnam, a similar but not identical provision in a general appropriation bill was ruled out as legislation in violation of clause 2 Rule XXI. 116 CONG.

REC. 18406, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 18.3 Language in a foreign aid appropriation bill prohibiting aid to any nation which permits ships under its registry to carry cargo to Cuba or North Vietnam unless the President determines that withholding of assistance would be contrary to the national interest and reports such determination to Congress, was conceded to be legislation and ruled out on a point of order. 112 CONG. REC. 23265, 89th Cong. 2d Sess., Sept. 20, 1966 [H.R. 17788].

§ 18.4 Language in a general appropriation bill prohibiting aid under the Foreign Assistance Act of 1961 to any country which furnishes or permits ships under its registry to carry certain strategic materials to Cuba (so long as it is governed by the Castro regime) was ruled out as legislation, since the provision was a restriction on the authorization rather than upon the funds carried in the pending bill. 116 CONG. REC. 18403, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 18.5 Where existing law gives the President discretionary authority to furnish and allocate foreign military assistance, subject to the authorization levels contained therein, it is not in order in a general appropriation bill to include language which would limit the President's authority to allocate excess defense articles to 120 percent of amounts justified to Congress for any country. 116 CONG. REC. 18401, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 18.6 Language in a foreign aid appropriation bill expressing the sense of Congress in opposition to discrimination by foreign nations on the basis of race or religion against American citizens traveling abroad, and requiring negotiations with such nations to be conducted in accordance with that congressional policy, was conceded to be legislation in violation of clause 2 Rule XXI. 116 CONG. REC. 18403, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867].

§ 18.7 To a general appropriation bill containing funds for foreign assistance, an amendment denying the availability of those funds to any nation "which requires payment above nominal and customary costs" for emigration permits was held to impose additional duties of investigation and interpretation upon federal officials and was ruled out as legislation in violation of clause 2 Rule XXI. 118 CONG. REC. 31835, 92d Cong. 2d Sess., Sept. 21, 1972 [H.R. 16705].

§ 18.8 To an amendment proposing to increase the amount appropriated for economic assistance (defense support) under the Mutual Security Act program, an amendment making part of the total appropriation available for aid to distressed areas in the United States was conceded to be legislation and was ruled out on a point of order. 106 CONG. REC. 13117-19, 86th Cong. 2d Sess., June 17, 1960 [H.R. 12619].

§ 18.9 A provision in a general appropriation bill, restating, but not in identical language, a declaration of the sense of Congress on a matter of foreign policy [a declaration found originally in the Foreign Assistance Act of 1962], was conceded to be legislation and was ruled out on a point of order. 108 CONG. REC. 20181, 87th Cong. 2d Sess., Sept. 20, 1962 [H.R. 13175].

§ 18.10 Language in a general appropriation bill expressing a congressional position with respect to the admission of China to the United Nations was held to be legislation and not in order. 105 CONG. REC. 14529, 86th Cong. 1st Sess., July 28, 1959 [H.R. 8385]. To the same effect, see 117 CONG. REC. 21892, 92d Cong. 1st Sess., June 24, 1971.

§ 18.11 An expression of the sense of Congress as to the conduct of government policy regarding underwriting of U.S. foreign assistance programs is not in the form of a limitation on the use of funds in a general appropriation bill and may be ruled out as legislation.

121 CONG. REC. 6570, 94th Cong. 1st Sess., Mar. 13, 1975 [H.R. 4592] where a paragraph in a general appropriation bill expressing the sense of Congress that excess foreign currencies deposited in the Treasury should be used when available to underwrite U.S. foreign assistance programs was held not to be in the form of a proper limitation and was ruled out in violation of Rule XXI clause 2.

§ 18.12 Where existing law (Pub. L. No. 91-672) prohibited the availability of appropriated funds for foreign assistance unless the appropriation has been previously authorized by law, a paragraph in a general appropriation bill for foreign assistance making funds therein available notwithstanding the provisions of that law was held to change existing law and was ruled out in violation of Rule XXI clause 2. 122 CONG. REC. 21127, 21128, 94th Cong. 2d Sess., June 29, 1976 [H.R. 14260].

§ 18.13 To a provision in a general appropriation bill (permitted to remain by failure to raise a point of order) stating the sense of Congress that any new Panama Canal Treaty must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, and defense of the Canal, an amendment striking that provision and inserting a statement that it was the sense of Congress that any such treaty must not abrogate or vitiate the "traditional interpretation" of past Panama Canal Treaties, with special reference to territorial sovereignty, was ruled out as constituting a different statement of legislative policy, not merely perfecting in nature, which was further legislation. 123 CONG. REC. 18402, 18403, 95th Cong. 1st Sess., June 10, 1977 [H.R. 7556]. *Note:* The key question in this instance was whether the amendment merely perfected or "restated" the policy statement contained in the bill or whether it set forth a different policy and was therefore legislation. The Chair strictly construed the rule although it was arguable that "vital interests of the U.S." implied nonabrogation of the "traditional interpretation" of past treaties.

§ 18.14 To a foreign aid general appropriation bill, an amendment prohibiting use of international narcotics control funds contained therein for the eradication of marihuana through the use of paraquat unless used with another substance which effectively warns potential users, was ruled out as legislation requiring new duties and determinations of the executive branch (where an authorization bill requiring similar findings had not yet been signed into law). 124 CONG. REC. 24437, 95th Cong. 2d Sess. Aug. 4, 1978 [H.R. 12931].

§ 19. Programs Involving Government Contracts; Procurement

§ 19.1 Language in a general appropriation bill paraphrasing existing law and, in the process, changing the provisions thereof with respect to the letting of procurement contracts, has been ruled out as legislation. 107 CONG. REC. 11502, 87th Cong. 1st Sess., June 28, 1961 [H.R. 7851].

§ 19.2 Language in a general appropriation bill providing that none of the funds therein should be used unless certain procurement contracts were awarded on a formally advertised basis to the lowest responsible bidder was held to be legislation and not in order. 107 CONG. REC. 11502, 87th Cong. 1st Sess., June 28, 1961 [H.R. 7851].

§ 19.3 A section in a general appropriation bill requiring that at least 35 percent of funds therein for naval vessel alteration, overhaul or repair shall be made available for such work in private shipyards, except that the Secretary of Defense may determine that urgency requires such work to be done in the Navy yards or in private yards as he may direct, was conceded to be legislation in violation of clause 2 Rule

XXI and was ruled out on a point of order. 118 CONG. REC. 30749, 92d Cong. 2d Sess., Sept. 14, 1972 [H.R. 16593].

§ 19.4 To a defense appropriation bill, an amendment providing that certain funds therein shall not be used under contracts awarded or negotiated after its date of enactment unless the Secretary of Defense finds that such contracts are covered by a vested retirement pension program approved by the Secretary was held to impose additional duties on that federal official and was ruled out as legislation in violation of clause 2 Rule XXI. 118 CONG. REC. 30758, 92d Cong. 2d Sess., Sept. 14, 1972 [H.R. 16593].

§ 19.5 A section in a general appropriation bill prohibiting the use of funds in the bill for the purchase of foreign-made tools except to the extent that the Administrator of the General Services Administration determines that domestically-produced tools are unavailable for procurement, was held to impose additional duties on that federal official and was ruled out as legislation in violation of clause 2 Rule XXI. 118 CONG. REC. 22097, 92d Cong. 2d Sess., June 22, 1972 [H.R. 15585].

§ 19.6 To a bill making appropriations for the Department of Defense, an amendment denying the use of funds appropriated or made available by the bill for procurement from foreign firms which receive government subsidies but permitting the President to waive such restriction in the national interest with prior notice to Congress was held to be legislation (imposing additional duties) and was ruled out on a point of order. 114 CONG. REC. 26563, 90th Cong. 2d Sess., Sept. 12, 1968 [H.R. 18707].

§ 19.7 While 41 USC § 5 provides that "unless otherwise provided in the appropriation concerned or other law, purchases and contracts for supplies or services for the Government may be made or entered into only after advertising a sufficient time previously for proposals," language in a general appropriation bill authorizing the Congressional Budget Office to contract without regard to that provision was held to constitute legislation in violation of Rule XXI clause 2 based upon a prior ruling of the Chairman directly in point and upon the language of the statute itself permitting an appropriation act or other law, but not a bill, to waive its provisions. 121 CONG. REC. 36271, 94th Cong. 1st Sess., Nov. 13, 1975 [H.R. 10647, supplemental appropriations, fiscal 1976].

§ 19.8 A paragraph in a general appropriation bill prohibiting the use of funds therein for payments on capital projects financed by AID loan funds, where the U.S. government has not directly approved the terms of the contracts, was held to impose a duty upon a government agency to make determinations not already mandated by law and was ruled out as legislation in violation of Rule XXI clause 2. 122 CONG. REC. 5532, 5533, 94th Cong. 2d Sess., Mar. 4, 1976 [H.R. 12203].

§ 19.9 Where existing law confers discretionary authority upon a federal official to cancel contracts, an amendment to a general appropriation bill requiring the expenditure of a certain amount under those contracts (a "hold-harmless" provision) is legislation and subject to a point of order. 122 CONG. REC. 20557, 94th Cong. 2d Sess., June 25, 1976 [H.R. 14231]. In this instance, to a paragraph of a general appropriation bill containing funds for the operation of Indian programs, an amendment providing that Indian tribes shall receive at least 90 percent of the amount under an educational service contract for the ensuing fiscal year as was received under the existing contract was ruled out as legislation in violation of Rule XXI clause 2, where it was shown that existing law permitted the cancellation of such contracts upon a finding of unsatisfactory performance.

§ 20. Military and Defense Programs; Veterans' Affairs

§ 20.1 An amendment to a general appropriation bill establishing a minimum size for a branch of the armed services was held to be legislation and not in order. 105 CONG. REC. 9715, 86th Cong. 1st Sess., June 3, 1959 [H.R. 7454].

§ 20.2 To an amendment prohibiting the use of funds in a general appropriation bill as well as funds already appropriated by other acts to support U.S. combat activities in Cambodia or Laos, an amendment making it illegal to participate in or order any such military activities was held to constitute additional legislation and was ruled out on a point of order. 119 CONG. REC. 22352, 22362, 93d Cong. 1st Sess., June 29, 1973 [H.R. 9055].

§ 20.3 A paragraph in a general appropriation bill providing for contingent expenditures by the Secretary of Defense to be accounted for solely on his certificate that the expenses were for confidential military purposes and providing for a quarterly report of such disbursements to Congress was held to impose additional duties on the Secretary and was ruled out as legislation. 119 CONG. REC. 38825, 93d Cong. 1st Sess., Nov. 30, 1973 [H.R. 11575].

§ 20.4 Language in a paragraph of a general appropriation bill providing for the expenditure of funds therein "on the approval or authority of the Secretary of the Air Force, and payment may be made on his certificate of necessity for confidential military purposes" was held to change existing law and was ruled out in violation of clause 2 Rule XXI when the Committee on Appropriations failed to cite statutory authority for that method of payment. 119 CONG. REC. 38822, 93d Cong. 1st Sess., Nov. 30, 1973 [H.R. 11575].

§ 20.5 To a paragraph in a general appropriation bill containing funds for operating expenses of the Coast Guard, an amendment providing additional funds for the preparation of a report by the Coast Guard on search and rescue units was held to impose new duties on federal officials and was ruled out as legislation in violation of clause 2 Rule XXI. 119 CONG. REC. 20530, 20531, 93d Cong. 1st Sess., June 20, 1973 [H.R. 8760].

§ 20.6 Language in a supplemental appropriation bill (1) changing existing law regarding certain veterans' insurance funds, (2) specifying accounting procedures to be followed in determining assets, (3) authorizing a future transfer of funds after a determination by the administrator, and (4) providing for the repayment to the Treasury of funds so transferred, was conceded to be legislation and ruled out on a point of order. 111 CONG. REC. 7131, 89th Cong. 1st Sess., Apr. 6, 1965 [H.R. 7091].

§ 20.7 Language in a general appropriation bill authorizing a transfer of trust funds sufficient to pay increased salary costs which imposed additional duties on the Administrator of Veterans' Affairs was conceded to be legislation on an appropriation bill and was ruled out by the Chair. 109 CONG. REC. 6160, 88th Cong. 1st Sess., Apr. 10, 1963 [H.R. 5517].

§ 20.8 Language in a general appropriation bill providing funds for Veterans' Administration operating expenses, including expenses for the issuance of memorial certificates to families of deceased veterans, was conceded to be unauthorized by law and was ruled out as legislation. 111 CONG. REC. 10166, 89th Cong. 1st Sess., May 11, 1965 [H.R. 7997].

§ 20.9 A section in a general appropriation bill prohibiting the use of any funds available to the Department of Defense for the military enlistment of persons who have not graduated from high school above a certain percentage was conceded not to be a limitation confined to funds in the bill and was ruled out as legislation in violation of Rule XXI clause 2. 120 CONG. REC. 10594, 10595, 93d Cong. 2d Sess.,

Apr. 10, 1974 [H.R. 14013, supplemental appropriations, fiscal 1974].

20.10 A section in a general appropriation bill authorizing the Secretary of Defense to transfer ammunition to a civilian organization, without reimbursement, in amounts determined by him, and making all currently available Defense Department funds available for certain expenses in amounts designated by the Secretary was conceded to impose additional duties on an executive official and was ruled out as legislation in violation of Rule XXI clause 2. 121 CONG. REC. 31089, 31090, 94th Cong. 1st Sess., Oct. 1, 1975 [H.R. 9861].

§ 21. Public Works Programs; Housing and Construction

§ 21.1 Language in a general appropriation bill providing an additional amount for the construction of public buildings not yet authorized by law was held to be legislation and not in order. 107 CONG. REC. 9678, 87th Cong. 1st Sess., June 7, 1961 [H.R. 7445].

§ 21.2 Language in a general appropriation bill terminating the authority of the Housing and Home Finance Administrator to finance mass transportation projects through the issuance of notes and obligations for purchase by the Secretary of the Treasury, and substituting a direct appropriation for financing based on a public-debt transaction, was conceded to be legislation and was ruled out on a point of order. 107 CONG. REC. 19729, 87th Cong. 1st Sess., Sept. 15, 1961 [H.R. 9169].

§ 21.3 Language in a general appropriation bill providing an appropriation, without fiscal year limitation, to finance loans for public facilities and redevelopment projects, was conceded to be legislation and was ruled out on a point of order, since the Area Redevelopment Act, which authorized such financial assistance, provided that the proceeds of public-debt transactions should be used to finance the program and did not authorize an appropriation for this purpose. 107 CONG. REC. 19726, 87th Cong. 1st Sess., Sept. 15, 1961 [H.R. 9169].

§ 21.4 To a general appropriation bill making appropriations for certain public works, an amendment providing that a particular authorized project should be financed out of "any available unallocated funds contained in this Act" was held to be in order. 105 CONG. REC. 10047, 10054, 86th Cong. 1st Sess., June 5, 1959 [H.R. 7509].

§ 21.5 A provision in a general appropriation bill changing existing law by restricting the contract authority of the Housing and Home Finance Administrator under the Housing Act of 1961, to an amount "within the limits of appropriations made available therefor," was conceded to be legislation and was ruled out on a point of order. 107 CONG. REC. 19730, 87th Cong. 1st Sess., Sept. 15, 1961 [H.R. 9169].

§ 21.6 Language in a supplemental appropriation bill providing funds for the Housing and Home Finance Agency and containing a proviso that "no funds appropriated herein, or funds available for expenditure pursuant to § 10 of the Housing Act of 1973 . . . shall be available . . . unless made in accordance with a budget approved by the Public Housing Commissioner . . ." was held to be legislation and not in order. 106 CONG. REC. 14086, 86th Cong. 2d Sess., June 23, 1960 [H.R. 12740].

§ 21.7 Language in a general appropriation bill providing funds for the construction of an electric power system in the Ryukyu Islands, to be operated by the Ryukyu Electric Power Corporation, was held to be unauthorized by law and not in order. 105 CONG. REC. 14529, 86th Cong. 1st Sess., July 28, 1959 [H.R. 8385].

§ 21.8 Language in a supplemental appropriation bill providing for "such sums as may be

necessary" for public buildings projects in the District of Columbia and further specifying that "no obligations shall be incurred for any project . . . which will result in a deficit in the general fund of the District of Columbia or exceed the estimated cost as submitted to Congress" was held to be legislation and not in order. 106 CONG. REC. 14086, 86th Cong. 2d Sess., June 23, 1960 [H.R. 12740].

§ 21.9 To a general appropriation bill making appropriations for Rural Electrification loans, an amendment earmarking a portion of the funds for grants to REA borrowers in Alaska was conceded as unauthorized by law and was ruled out as legislation. 110 CONG. REC. 11424-26, 88th Cong. 2d Sess., May 20, 1964 [H.R. 11202].

§ 21.10 To a general appropriation bill making appropriations for public works, and including funds for the Panama Canal Corporation, an amendment prohibiting the corporation from disposing of real property unless approved by the appropriate legislative committees of the House and Senate was ruled out as legislation. 110 CONG. REC. 13973, 88th Cong. 2d Sess., June 16, 1964 [H.R. 11579].

§ 21.11 Where existing law (40 USC § 606) requires approval by the Committee on Public Works of certain public buildings projects to be undertaken by the General Services Administration, language in a general appropriation bill restricting GSA funds therein for public building purchase contracts, unless presented to and not disapproved by the House and Senate Committees on Appropriations, was conceded to be legislation and was ruled out in violation of Rule XXI clause 2. 120 CONG. REC. 21044, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544, Treasury, Postal Service, executive office appropriations, fiscal 1975].

§ 21.12 Where existing law required approval by the House and Senate Committees on the District of Columbia and Appropriations of designs, plans, and specifications for the Eisenhower Civic Center prior to entering into a purchase contract for construction, an amendment to an appropriation bill specifying that "notwithstanding any other provision of law," such design, plans, and specifications shall be deemed approved by the Committees on Appropriations was held to change existing law and was ruled out in violation of Rule XXI clause 2. 120 CONG. REC. 21747-49, 93d Cong. 2d Sess., June 28, 1974 [H.R. 15581].

§ 21.13 A paragraph in a general appropriation bill, appropriating funds under section 103(c) of title I of the Housing and Community Development Act of 1974, and also providing that notwithstanding any law to the contrary, appropriations under sections 103(b) and 103(c) of said act shall be available in the full amounts provided, was conceded to contain unauthorized appropriations and legislation on an appropriation bill and was stricken from the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 22, 1979 [H.R. 4394].

Chapter 27

Amendments

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§ 1. In General; Form

§ 1.1 There are four primary types of amending procedures or motions in the House, as follows: (1) amendment, (2) amendment to the amendment, (3) substitute for the original amendment, and (4) amendment to the substitute. The amendment must, of course, be offered first, and only one amendment to the text may be pending at any time, but all four motions may be pending simultaneously. See 119 Cong. Rec. 41259, 41261, 93d Cong. 1st Sess., Dec. 13, 1973 [H.R. 11450]; see also §§ 5, 6, infra.

§ 1.2 While an amendment in the nature of a substitute is in every instance a "motion to strike out and insert," the term "amendment in the nature of a substitute" should apply only to those motions which propose to strike out an entire pending text and to insert new matter and is not used to describe those motions to strike out and insert which may be properly characterized as "perfecting amendments" and which go only to a portion of the pending text. (See § 23, infra.)

§ 1.3 *Note:* Pro forma amendments are those phrased to make some superficial change in a bill—such as "to strike the last word"—where the underlying purpose is to obtain time for debate or to offer an explanation, no actual change in the bill being contemplated.

§ 1.4 Pursuant to Rule XVI clause 1, an amendment must be reduced to writing on demand (110 Cong. Rec. 2718, 88th Cong. 2d Sess., Feb. 10, 1964 [H.R. 7152]) or where the Chair requires that it be submitted in that form. 119 Cong. Rec. 34334-36, 93d Cong. 1st Sess., Oct. 16, 1973 [H.R. 9681]. In this instance, the Chair indicated that certain amendments would be in order if offered in writing or if offered verbally by unanimous consent.

§ 1.5 An ambiguity in the wording of an amendment does not subject it to a point of order, for it is for the Committee of the Whole, and not the Chairman, to determine whether an amendment is properly drafted to accomplish its stated purpose. 115 Cong. Rec. 31867, 31886, 31888, 91st Cong. 1st Sess., Oct. 28, 1969 [H.J. Res. 966]. Whether an amendment is drafted to accomplish a particular legislative purpose is not a question to be raised on a point of order but is an issue to be disposed of on the merits. 122 Cong. Rec. 2371, 94th Cong. 2d Sess., Feb. 4, 1976 [H.R. 9464].

§ 1.6 Under Rule XXIII clause 5, the Clerk is required to promptly distribute copies of an amendment offered in Committee of the Whole to the majority and minority committee tables and cloakrooms. However, the inability of the Clerk to comply with this rule is not grounds for a point of order against the amendment. 120 Cong. Rec. 20609, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]; 122 Cong. Rec. 7997, 94th Cong. 2d Sess., Mar. 25, 1976 [H.R. 12566]; 123 Cong. Rec. 29440, 95th Cong. 1st Sess., Sept. 15, 1977 [H.R. 3744]. And since it is not the responsibility of the Member offering the amendment to insure that it is distributed according to the requirements of the rule, the improper distribution of copies will not prevent consideration of the amendment. 121 Cong. Rec. 3596, 94th Cong. 1st Sess., Feb. 19, 1975 [H.R. 2051). See also 121 Cong. Rec. 6708, 94th Cong. 1st Sess., Mar. 14, 1975 [H.R. 25], indicating that while copies of an amendment should be distributed as a matter of courtesy, the failure to do so will not prevent its consideration.

§ 1.7 Amendments to a substitute should be drafted to the proper page and line number of the substitute rather than to comparable provisions of the original text. 120 Cong. Rec. 24453, 93d Cong. 2d Sess. July 22, 1974 [H.R.

11500]. 120 CONG. REC. 34463, 34464, 93d Cong. 2d Sess., Oct. 8, 1974 [H. Res. 988], where an amendment drafted to the page and lines of the original resolution rather than to an amendment in the nature of a substitute thereto was ruled out of order.

§ 1.8 The Chair anounced, at the conclusion of general debate on a bill being considered under a special rule permitting only germane amendments printed in the *Congressional Record*, that Members should submit legible copies of their amendments to the Clerk rather than rely upon the Clerk to locate the text of the amendment as printed in the *Congressional Record*. 121 CONG. REC. 17907, 94th Cong. 1st Sess., June 9, 1975 [H.R. 6860].

§ 1.9 Rule XXIII clause 6 permits 10 minutes of debate on an amendment printed in the *Congressional Record* despite time limitations imposed by the Committee of the Whole. Amendments to be printed in the Record pursuant to this rule must be deposited in a separate box at the rostrum during a session or with the official reporters of debats within 15 minutes following adjournment, and must bear the Member's original signature. Such an amendment must be printed in a designated portion of the Record and must precisely indicate the text to which it will be offered. 120 CONG. REC. 37270, 93d Cong. 2d Sess., Nov. 25, 1974 [H. Res. 1387]. The amendment must be offered in the same form in which it was printed in the Record to assure time for debate. 120 CONG. REC. 24453, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500]. The printing of an amendment in the Record under this clause permits debate notwithstanding a limitation of debate only if the amendment has been properly offered, and does not permit the offering of an amendment not otherwise in order under the rules; and the guaranteed time for debate may be claimed only if the offeror of the amendment is the Member who caused it to be printed under the rule. *House Rules and Manual* § 874 (95th Cong.).

§ 2. Effect of Special "Rule" or Resolution

§ 2.1 Bills are frequently considered pursuant to the terms of a special rule or resolution reported by the Rules Committee which specifies whether amendments may be offered to the bill, and, if so, whether the bill is to be considered in the House or in Committee of the Whole, and the kind and number of amendments that may be offered. Broadly speaking, bills considered pursuant to an "open" rule may be amended whereas bills considered pursuant to a "closed" rule may not, although special resolutions providing rules that are "open in part" or "closed in part" or providing a "modified closed rule" are not uncommon. Compare 117 CONG. REC. 15599, 92d Cong. 1st Sess., May 18, 1971 [H. Res. 437, providing for consideration of H.R. 3613 pursuant to an "open" rule]; 112 CONG. REC. 13990, 89th Cong. 2d Sess., June 23, 1966 where the Committee on Rules reported a "closed" rule, although the legislative committee requesting the resolution had asked for an "open" rule; 116 CONG. REC. 23901, 91st Cong. 2d Sess., July 13, 1970 [H. Res. 1093, providing for a rule "closed in part"]; 117 CONG. REC. 18614, 92d Cong. 1st Sess., June 8, 1971 [H. Res. 466, providing for a rule "open in part" and "closed in part"]; 117 CONG. REC. 21082, 92d Cong. 1st Sess., June 21, 1971 [H. Res. 487, providing for consideration of H.R. 1, Social Security Amendments of 1971, under a "modified closed rule"].

§ 2.2 An amendment to a resolution providing a "closed rule" may be offered in the House if the previous question is voted down on the resolution. 116 CONG. REC. 44292, 91st Cong. 2d Sess., Dec. 31, 1970 [H. Res. 1337].

§ 2.3 If the House adopts an amendment to a pending "closed" rule permitting motions to "strike out any matter in the bill", motions to strike out any portion of the bill would be in

order, including an entire section or title. 116 CONG. REC. 37823, 37838, 91st Cong. 2d Sess., Nov. 18, 1970 [H. Res. 1225].

§ 2.4 The Committee on Rules may report a special order providing special procedures governing the further consideraton of a bill pending in the Committee of the Whole pursuant to a previous special order reported by the committee and adopted by the House. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 24, 1979 [H. Res. 281].

§ 2.5 Where a bill is being considered in the House under an "open rule", germane amendments to the bill are in order under the standing rules of the House. 111 CONG. REC. 18076, 89th Cong. 1st Sess., July 26, 1965.

§ 2.6 A "modified closed rule" sometimes permits only committee amendments or designated amendments (119 CONG. REC. 40489, 93d Cong. 1st Sess., Dec. 10, 1973 [H.R. 10710]) or may prohibit the consideration of amendments relating to a particular subject. Thus, the House may consider a bill pursuant to a modified closed rule permitting certain amendments and prohibiting all others restricting use of funds for abortions or abortion-related services. 124 CONG. REC. 16657, 95th Cong. 2d Sess., June 7, 1978 [H. Res. 1220, providing for consideration of H.R. 12929]. And the Chair may inquire of a Member seeking recognition to offer an amendment whether his amendment has been made in order under the rule before recognizing him to offer the amendment. 123 CONG. REC. 26448, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 8444].

§ 2.7 Pro forma amendments are not in order when a bill is being considered under a "closed" rule which permits no amendments except by direction of the committee reporting the bill. 108 CONG. REC. 22636, 87th Cong. 2d Sess., Oct. 5, 1962 [H. Con. Res. 570]; 123 CONG. REC. 33637, 95th Cong. 1st Sess., Oct. 13, 1977 [H.R. 8309, being considered pursuant to H. Res. 776].

§ 2.8 Where a special rule makes in order the text of another bill as an amendment, that text may be offered as an amendment to the bill or as an amendment in the nature of a substitute therefor. 114 CONG. REC. 21765, 90th Cong. 2d Sess., July 17, 1968 [H. Res. 1249, providing for consideration of H.R. 17735].

§ 2.9 Where a Member seeks recognition to offer an amendment under a special rule which permits only germane amendments which have been printed in the *Congressional Record*, the Chair may inquire as to whether the amendment qualifies under the rule. 123 CONG. REC. 30530, 95th Cong. 1st Sess., Sept. 23, 1977 [H.R. 3]. An amendment similar but not identical to the text of an amendment printed in the Record has been held out of order under such a rule. 120 CONG. REC. 2368, 93d Cong. 2d Sess., Feb. 6, 1974 [H.R. 5463]. Likewise, where the Committee of the Whole is bound by a special rule allowing only certain designated amendments and prohibiting amendments thereto, unanimous consent is required to offer an amendment which differs in any way from an amendment permitted under the rule. 122 CONG. REC. 28871, 28872, 28877, 94th Cong. 2d Sess., Sept. 1, 1976 [H.R. 14238]; 123 CONG. REC. 35385, 35386, 95th Cong. 1st Sess., Oct. 27, 1977 [H.R. 9346]. An amendment offered under such a rule should be in the exact form in which it was printed in the Record. However, the Committee of the Whole may by unanimous consent permit modification of the amendment to correct erroneous page and line numbers. 123 CONG. REC. 26451, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 8444]. Similarly, where such amendment has been inserted in the Record without a page reference but with language indicating its point of insertion in the bill, the amendment will be in compliance with the special rule when offered in identical form with the addition of a page designation. 122 CONG. REC. 9090, 9091, 94th Cong. 2d Sess., Apr. 1, 1976 [H.R. 12406]. On the other hand, when the

rule prescribes the order of amendments or their relationship to each other, modification thereof, even by unanimous consent, has not been permitted. 123 CONG. REC. 26161, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 8444]. Where a special order requires the printing of amendments in the Record by a date certain in order to be offered during consideration of a bill, the incorrect identification of amendments as printed by the Government Printing Office in the Record of that date will not prevent their consideration if in otherwise proper form. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 30, 1979 [H. Res. 467].

§ 2.10 Where the House had adopted a special rule providing that a committee amendment in the nature of a substitute be read as an original bill for amendment three legislative days after the conclusion of general debate, and that germane amendments to title I of that substitute must be printed in the *Congressional Record* at least two calendar days before offered, precluding amendments to said amendments, the Speaker pro tempore indicated in response to a series of parliamentary inquiries: (1) that amendments to title I which might be offered the following Tuesday must be printed in the Record of the present day (Thursday) since neither House would be in session—and therefore no printed Record available until the next Monday—in order to comply with the two-calendar day printing requirement; (2) that the House or Committee of the Whole might vote to defer consideration of the bill for amendment until a subsequent day, thereby extending the time for printing amendments to title I in the Record; and (3) that pro forma amendments to pending amendments to title I were precluded by the rule. 120 CONG. REC. 6821-23, 93d Cong. 2d Sess., Mar. 14, 1974 [H.R. 69].

§ 2.11 Where the House had adopted a special rule providing that a committee amendment in the nature of a substitute be read as an original bill for amendment three legislative days after the conclusion of general debate, the Speaker indicated, in response to a parliamentary inquiry, that "at least three legislative days" must pass before reading for amendment under the five-minute rule could begin. The Speaker added that a motion to resolve into the Committee of the Whole to consider that bill would not be required by the rule on the fourth legislative day, but could be entertained on a subsequent day. 120 CONG. REC. 6984, 93d Cong. 2d Sess., Mar. 18, 1974 [H. Res. 963].

§ 2.12 Under a special rule permitting only germane amendments printed in the *Congressional Record* for at least two calendar days to be offered to a designated title of a bill, and prohibiting amendments thereto, a Member was permitted to offer a pro forma amendment to that title ("to strike the requisite number of words") where that amendment had been inserted in the Record by another Member, and at a time when no substantive amendment was pending. 120 CONG. REC. 8229, 8233, 8243, 93d Cong. 2d Sess., Mar. 26, 1974 [H.R. 69]. *Note:* A Member had inserted five pro forma amendments in the Record. Another Member offered one of the five. Pursuant to 8 Cannon's Precedents § 2874, the Chair stated that "without objection," the pro forma amendment was withdrawn at the conclusion of the allotted five minutes. This procedure avoided the necessity of putting the question on the pro forma amendment, and permitted the reoffering of that amendment to the title at a later time.

§ 2.13 Where a special rule restricts the offering of amendments to those printed in the *Congressional Record* but does not specify the Members who must offer them, the right to propose amendments properly inserted in the Record inures to all Members. 120 CONG. REC. 8229, 8233, 8243, 93d Cong. 2d Sess., Mar. 26, 1974 [H.R. 69]. Under such a special rule any Member may offer any germane amendment printed in the Record, and there is

no requirement that only the Member causing the amendment to be printed may offer it, unless the special order so specifies. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 31, 1979. As to who may offer a printed amendment under Rule XXIII clause 6 to be entitled to debate in Committee of the Whole, see Ch. 29 § 34, infra.

§ 2.14 Where there was pending a perfecting amendment to a title of a bill being considered under a special rule permitting only germane amendments printed in the *Congressional Record* for at least two calendar days to be offered to that title, and prohibiting amendments thereto, the Chairman of the Committee of the Whole indicated in response to a parliamentary inquiry that the pendency of a perfecting amendment precluded the offering of a pro forma amendment printed in the Record as a perfecting amendment to the bill. 120 CONG. REC. 8242, 8243, 93d Cong. 2d Sess., Mar. 26, 1974 [H.R. 69].

§ 2.15 By unanimous consent, a Member may be permitted to offer at the appropriate point in a bill an amendment which has not been printed in the *Congressional Record* as required by a special rule governing consideration of the bill. 124 CONG. REC. 30434, 95th Cong. 2d Sess., Sept. 20, 1978 [H.R. 1]. Thus, where there was pending an amendment to a bill being considered under a special rule permitting only germane amendments printed in the Record to be offered to that title, and prohibiting amendments thereto, a modification of an amendment printed in the Record may be permitted in Committee of the Whole by unanimous consent. 120 CONG. REC. 8253, 93d Cong. 2d Sess., Mar. 26, 1974 [H.R. 69]. *Note:* Permission to offer an unprinted amendment is construed to waive only the special rule requiring printing in the Record and not to waive any germaneness or other point of order which might lie against the amendment.

§ 2.16 To a committee amendment in the nature of a substitute being read by titles for amendment under a special rule prohibiting amendments to amendments offered to title I (thereby permitting only 10 minutes of debate on each permissible amendment to title I), an amendment inserting a new title II may be amended (including pro forma amendments thereto) and is not subject to the restrictions imposed by that rule. 120 CONG. REC. 8264, 93d Cong. 2d Sess., Mar. 26, 1974 [H.R. 69].

§ 2.17 Where a special rule waived points of order against an amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries to a bill reported from the Committee on Public Works, but only after rejection of a Public Works Committee substitute, the Chairwoman of the Merchant Marine and Fisheries Committee was not precluded from offering a modified version of that committee's proposal as a substitute for the pending Public Works Committee amendment in the nature of a substitute, in order to obtain the first vote thereon. 120 CONG. REC. 18116 et seq., 93d Cong. 2d Sess., June 6, 1974 [H. Res. 1139].

§ 2.18 During debate on a resolution reported from the Committee on Rules providing consideration of a bill under a "modified closed rule" permitting germane amendments if printed in the *Congressional Record* at least one day before offered, the chairman of the committee reporting the bill announced that he would not make points of order against amendments not printed in the Record if otherwise in order under the rule. 120 CONG. REC. 27204 et seq., 93d Cong. 2d Sess., Aug. 7, 1974 [H. Res. 1292].

§ 2.19 To a subsection of a bill (setting a $75,000 limitation on expenditures by candidates for Congress) being considered under a special rule permitting only amendments which solely change money amounts, an amendment adding the exception that a lower limit if imposed by state law shall apply was held in order as solely affecting money

amounts in that subsection, by prescribing a lower amount if enacted by state law without directly conferring discretionary authority upon the states. 120 CONG. REC. 27460, 27461, 93d Cong. 2d Sess., Aug. 8, 1974 [H.R. 16090].

§ 2.20 To a bill being considered under a special rule prohibiting any amendment to certain sections in a title thereof, an amendment (offered en bloc with another amendment inserting a new section in that title) making merely a conforming change in a section not open to amendment was ruled out of order. 120 CONG. REC. 27496, 27497, 93d Cong. 2d Sess., Aug. 8, 1974 [H.R. 16090].

§ 2.21 A joint resolution is not directly subject to amendment where it is being considered in the House under a special rule providing that the previous question shall be considered as ordered after general debate. 120 CONG. REC. 36020, 36021, 93d Cong. 2d Sess., Oct. 17, 1974 [H. Res. 1456, providing for consideration of H.J. Res. 1167].

§ 2.22 Proceedings occurred in Committee of the Whole pursuant to a special rule providing that an Interior and Insular Affairs Committee amendment be considered as read as an original bill and permitting the text of another bill reported from the Armed Services Committee to be offered as an amendment in the nature of a substitute following general debate, and further permitting en bloc consideration of Armed Services Committee amendments upon rejection of said substitute. 121 CONG. REC. 21617, 21618, 94th Cong. 1st Sess., July 8, 1975 [H.R. 49].

§ 2.23 Where a bill was being considered under a special rule prohibiting amendments to title II except those offered by the Committee on Ways and Means, the chairman of that committee, at the conclusion of general debate, received unanimous consent to strike out title II from the bill, thereby obviating any possible point of order against an amendment in the nature of a substitute, offered from the floor, which would propose to strike that title. 121 CONG. REC. 38179, 94th Cong. 1st Sess., Dec. 2, 1975 [H.R. 10481].

§ 2.24 Where a "modified closed rule" provides that a designated amendment may be offered as a new title to a bill and, with the exception of committee amendments thereto, only one designated amendment to that amendment may be offered, only two five-minute speeches are permitted on that amendment to the amendment. (A pro forma amendment thereto would be in the third degree, and a pro forma amendment to the original amendment inserting a new title would be specifically prohibited by the rule.) 121 CONG. REC. 41788-90, 94th Cong. 1st Sess., Dec. 18, 1975 [H.R. 9771].

§ 2.25 The House adopted a resolution providing an "open" rule for the consideration, in lieu of a committee amendment in the nature of a substitute printed in the bill, of a committee amendment in the nature of a substitute printed in a supplemental report as an original bill for the purpose of amendment. 122 CONG. REC. 23709, 94th Cong. 2d Sess., July 26, 1976 [H. Res. 1341, providing for consideration of H.R. 7743].

§ 2.26 The House adopted a resolution reported from the Committee on Rules providing an "open" rule and making in order en bloc consideration of amendments inserted in the *Congressional Record*, with said amendments not subject to demand for division of the question in the Committee of the Whole or in the House. 122 CONG. REC. 25778, 25783, 94th Cong. 2d Sess., Aug. 5, 1976 [H. Res. 1444, providing for consideration of H.R. 11552, the Voter Registration Act]. *Note:* While the amendments were not divisible, they were amendable and portions could be changed or deleted by amendment.

§ 2.27 A special order prohibiting amendments to a bill except those printed in the *Congressional Record* does not apply to amend-

ments to amendments unless so specified. 124 CONG. REC. 28419, 95th Cong. 2d Sess., Sept. 7, 1978 [H.R. 7308]. Thus, where a special rule makes in order only germane amendments to a bill which have been printed in the Record, but is silent on the offering of amendments to those amendments, any germane amendment to a printed amendment may be offered. 122 CONG. REC. 28311, 94th Cong. 2d Sess., Aug. 30, 1976 [H. Res. 1496].

§ 2.28 The House adopted a resolution providing an "open" rule and waiving points of order against a committee amendment in the nature of a substitute to be read as an original bill by sections, and making in order at any time during consideration of title II of the committee amendment an amendment (if offered by either of two Representatives) striking out all of title II and inserting new provisions in lieu thereof. 123 CONG. REC. 16194, 16195, 95th Cong. 1st Sess., May 24, 1977 [H. Res. 589, providing for consideration of H.R. 6161, the Clean Air Act Amendments of 1977]. *Note:* The reading of a multi-title bill by sections ordinarily precludes the offering of a motion to strike out an entire title and to insert a new text. In this case, the Committee on Rules determined that the floor amendment should be considered as one package, and therefore specifically made it in order notwithstanding the reading of the bill by sections. Since the Committee on Rules in its deliberations did not specify where in the reading of title II that amendment could be offered, it was in order at the beginning, the middle, or the end of the reading of title II of the amendment in the nature of a substitute.

§ 2.29 A bill may be considered for amendment pursuant to a special rule allowing only designated amendments, including committee amendments, to be considered in a certain order. 124 CONG. REC. 25453, 95th Cong. 2d Sess., Aug. 10, 1978 [H.R. 13511]. If the rule provides for the consideration of amendments from differing committees, it may stipulate the order or sequence in which the amendments are to be taken up. 124 CONG. REC. 32665, 95th Cong. 2d Sess., Sept. 29, 1978 [H. Res. 1354]. In one instance, pursuant to a special rule making in order the offering of a designated amendment to a part of a bill only after the disposition of three groups of committee amendments to that part, the Chair indicated that the third group of amendments en bloc would have to be disposed of prior to the offering of a floor amendment to that part. 123 CONG. REC. 26447, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 8444].

§ 2.30 Where one committee's amendment printed in a reported bill has been made in order by a special rule as a substitute for another committee's amendment, and the primary amendment is ruled out on a point of order, the committee amendment made in order as a substitute retains the status of an amendment to the bill and is reported by the Clerk unless the rule permits its consideration only as a substitute. 123 CONG. REC. 30534, 95th Cong. 1st Sess., Sept. 23, 1977 [H.R. 3].

§ 2.31 The House adopted a resolution waiving points of order against consideration of a bill and providing, *inter alia,* for the reading of an amendment in the nature of a substitute recommended by the committee of initial referral as an original bill by titles, and making in order, immediately after the reading of the enacting clause, the consideration of the text of another bill as an amendment in the nature of a substitute to the committee substitute. 124 CONG. REC. 2850, 95th Cong. 2d Sess., Feb. 8, 1978 [H. Res. 1006]. *Note:* Consideration of the floor amendment in the nature of a substitute was made in order after the reading of the enacting clause since the amendment would not have been in order otherwise until all of title I had been read and opened to preferential perfecting amendments. A special rule providing for the consideration of a bill reported from one committee may make in order the text of another bill reported by another

committee as a motion to strike and insert. 124 CONG. REC. 29254, 95th Cong. 2d Sess., Sept. 13, 1978 [H. Res. 1293].

§ 2.32 Where a special rule adopted by the House makes in order an amendment to strike out a portion of a bill and to insert new text, and prohibits amendments to that amendment or further amendments changing that portion of the bill if the designated amendment is adopted, further amendments to that portion of the bill, including a motion to strike, are in order if the designated amendment is rejected. 124 CONG. REC. 29477, 95th Cong. 2d Sess., Sept. 14, 1978 [H.R. 8729].

§ 2.33 Resolutions providing for a "modified closed" rule for the consideration of a bill providing for a temporary increase in the public debt limit may preclude amendments except those changing the duration or amount of the debt ceiling. 124 CONG. REC. 21728, 95th Cong. 2d Sess., July 19, 1978 [H. Res. 1277]. For a similar special rule, see 125 CONG. REC. 21728, 96th Cong. 1st Sess., Mar. 15, 1979 [H. Res. 157]. Such rules are intended to restrict amendments to those merely adopting another date certain or another figure certain. Accordingly, an amendment providing that the temporary increase in the debt limit would expire on the date specified in the bill or when the cost of servicing the public debt exceeds a certain limit, is out of order. 124 CONG. REC. 21728, 95th Cong. 2d Sess., July 19, 1978 [H. Res. 1277]

§ 2.34 The House considered a bill pursuant to a special rule which (*inter alia*) made in order the consideration of the text of another bill if offered as an amendment in the nature of a substitute, and waiving all germaneness and appropriation points of order against said substitute and against any amendment in the nature of a substitute offered therefor. 124 CONG. REC. 14139, 95th Cong. 2d Sess., May 17, 1978 [H. Res. 1186]. The Speaker indicated in response to parliamentary inquiries that the resolution waived all germaneness points of order against any amendment in the nature of a substitute offered from the floor to the measure made in order as original text, but not against substitutes therefor or perfecting amendments thereto.

§ 2.35 The Committee on Rules reported a resolution waiving points of order against two designated sections of a general appropriations bill, prohibiting amendments to one of those sections except one designated amendment, prohibiting any other amendment, or motion to recommit, having the effect of changing or modifying said section. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 13, 1979 [H. Res. 312].

§ 2.36 In the 96th Congress, the Committee on Rules reported a resolution providing a "modified open" rule for the consideration of a bill and prohibiting amendments to the bill except *(inter alia)* germane amendments relating to the chapters of existing law amended by the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 30, 1979 [H. Res. 236].

§ 2.37 The Committee on Rules reported a special rule providing for consideration of a measure in the House as in the Committee of the Whole under the five-minute rule, permitting germane amendments except with respect to three subjects, designated legislative amendments on two of those subjects and a closed rule with respect to the third subject. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 19, 1979 [H. Res. 408, providing for consideration of H.J. Res. 399, continuing appropriations, fiscal year 1980].

§ 2.38 Where a special rule adopted by the House provides that it shall be in order to consider the text of a bill as an amendment in the nature of a substitute for the pending bill and that the amendment shall be considered before perfecting amendments and be considered as an original bill for the purpose of amendment, the amendment is not offered from the floor but is automatically reported by the Clerk; and

in the event the amendment is defeated, the original bill is considered for amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.R. 5229].

§ 2.39 Where a special order adopted by the House provides special procedures governing the consideration of an amendment *if offered* in the Committee of the Whole, the Chair announces after such an amendment is offered and before debate begins thereon the relevant provisions of the special order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 17, 1979.

§ 2.40 First instance of special rule reported from the Committee on Rules, providing a "modified closed" procedure for the initial consideration in the Committee of the Whole of amendments to a concurrent resolution on the budget, permitting only designated perfecting amendments to certain functional categories and aggregate totals, not amendable except by specifically designated substitutes; and then permitting only three designated amendments in nature of a substitute (not amendable) reflecting different overall budget priorities. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Apr. 23, 1980 [H. Res. 642].

§ 2.41 Where a special rule prohibits further amendments which "change or affect" the law being amended, an amendment to the bill not directly amending that law and containing the disclaimer that nothing therein be construed to change or affect that law, was held in order where the proponent of the amendment proved that the existing law was not necessarily affected by the amendment. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 8, 1980 [S. 1309]. In this instance, an amendment amending the Internal Revenue Code having been adopted to a bill comprehensively amending the Food Stamp Act, pursuant to a special rule making the amendment in order and prohibiting any further amendment to the bill to "change or affect" the Internal Revenue Code, an amendment adding a new title to require repayments by food stamp recipients of excess benefits received, to be collected by the Secretary of the Treasury in coordination with his responsibilities under other federal laws or by the Secretary of Agriculture, but also providing that no provision of the amendment be construed to change or affect the Internal Revenue Code, was held not to violate the provisions of the special rule.

§ 2.42 While under the five-minute rule an amendment in the nature of a substitute for a bill may ordinarily be offered either after the first section has been read or at the conclusion of the reading of the bill, where a bill is being considered under a special rule precluding further amendment to the bill upon adoption of a committee amendment at the end thereof, an amendment in the nature of a substitute can only be offered after the first section is read, absent rejection of the committee amendment. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 23, 1980 [H.R. 7020].

§ 3. Offering Amendments; Priorities in Recognition

§ 3.1 A Member wishing to offer an amendment must first be recognized by the Chair for that purpose. 113 CONG. REC. 26370, 90th Cong. 1st Sess., Sept. 21, 1967.

§ 3.2 In recognizing Members to offer amendments, the presiding officer gives preference to the chairman of the committee reporting the bill. 108 CONG. REC. 13391, 87th Cong. 2d Sess., July 12, 1962 [H.R. 11921].

§ 3.3 Perfecting committee amendments to a resolution reported from the Committee on Rules may be considered before the Member calling up the resolution is recognized to control debate thereon but that Member may ask recognition to debate the committee amendments. 116 CONG. REC. 18656–58, 91st Cong. 2d Sess., June 8, 1970 [H. Res. 976]; 117 CONG.

REC. 5587, 92d Cong. 1st Sess., Mar. 9, 1971 [H. Res. 115, creating a select committee to investigate crime].

§ 3.4 The order in which amendments may be offered to a pending paragraph is not determined by the sequence of lines to which the amendments may relate; for when a paragraph is open to amendment at any point, the order in which the Chair recognizes Members to offer amendments is dictated by the committee rank of those seeking recognition and not by the text of their amendments. 116 CONG. REC. 25635, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515].

§ 3.5 Recognition to offer amendments is in the Chair's discretion, and no point of order lies against the Chair's recognition of one Member over another (where the special order governing the consideration of the bill gives no particular precedence to an amendment). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 21, 1979, [H.R. 111]. The order of recognition being within the discretion of the Chair, he may either base his initial recognition on committee seniority or upon the preferential voting status of the amendments sought to be offered. Thus, the Chair has the discretion of either first recognizing the senior committee member with an amendment, or a junior committee member whose perfecting amendment would be first voted on, where both amendments could ultimately be pending at the same time. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 15, 1979 [H.R. 39]. However, members of the reporting committee(s) are ordinarily accorded prior recognition in order of committee seniority. 124 CONG. REC. 14145, 95th Cong. 2d Sess., May 17, 1978. In extending such recognition, the Chair may alternate between the majority and minority sides. 119 CONG. REC. 41153, 41154, 93d Cong. 1st Sess., Dec. 12, 1973 [H.R. 11450].

§ 3.6 Recognition to offer amendments is first extended to the manager of a bill; and the fact that the Committee of the Whole has just completed consideration of one amendment offered by the manager does not preclude his being recognized to offer another. 113 CONG. REC. 8617, 90th Cong. 1st Sess., Apr. 6, 1967 [H.R. 2512].

§ 3.7 Perfecting committee amendments to a paragraph under consideration are disposed of before amendments from the floor are considered. 109 CONG. REC. 7139, 88th Cong. 1st Sess., Apr. 25, 1963 [H.R. 4997, Feed Grain Act, 1963].

§ 3.8 Where a bill is considered as read and open for amendment at any point, committee amendments are considered before the Chair extends recognition for amendments from the floor. 114 CONG. REC. 22094, 90th Cong. 2d Sess., July 18, 1968 [H.R. 15263, Foreign Assistance Act of 1968].

§ 3.9 Where a bill is being considered in Committee of the Whole under a special order, the Chairman may announce that recognition to offer an amendment will be governed by the precedents relating to recognition where the special order does not attach priorities with respect thereto. 119 CONG. REC. 41153-55, 93d Cong. 1st Sess., Dec. 12, 1973 [H.R. 11450, Energy Emergency Act]. In such cases, the Chair may accord recognition pursuant to the principle of alternation between majority and minority parties or on the priority of perfecting amendments over motions to strike. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 21, 1979 [H.R. 111].

§ 3.10 In rare instances, the Speaker has taken the floor to offer an amendment in the Committee of the Whole. 105 CONG. REC. 5094, 86th Cong. 1st Sess., Mar. 24, 1959 [H.R. 5916].

§ 3.11 Where the Committee of the Whole resumed consideration of a bill under a special rule prohibiting amendments to a pending amendment except pro forma amendments for debate, the Chair announced that he would

first recognize Members who had not offered pro forma amendments on the preceding day, priority of recognition being given to members of the reporting committee. 123 CONG. REC. 26444, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 8444].

§ 3.12 The Chair may, after recognizing the manager of a bill to offer a pro forma amendment under the five-minute rule, then recognize the ranking minority member to offer a perfecting amendment, prior to recognizing another majority member seeking recognition on behalf of another committee with jurisdiction over a portion of the bill to move to strike out that portion, where the motion to strike is made in order but given no preferential status in the special rule governing consideration of the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 21, 1979 [H.R. 111].

§ 3.13 The fact that the Chair has recognized a Member to raise a parliamentary inquiry does not prohibit the Chair from then recognizing the same Member to offer an amendment, and the principle of alternation of recognition does not require the Chair to recognize a Member from the minority to offer an amendment after recognizing a Member from the majority to raise a parliamentary inquiry. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980 [H.R. 7235].

§ 4. Time for Offering Amendments

§ 4.1 A pending amendment to a resolution under debate in the House is not subject to further amendment unless the proponent of the amendment yields for that purpose or the previous question on the pending amendment is voted down. 115 CONG. REC. 27-29, 91st Cong. 1st Sess., Jan. 3, 1969 [during consideration of H. Res. 1].

§ 4.2 In the House, during consideration of a resolution reported from the Committee on House Administration, an amendment thereto may be offered only by the Member having the floor unless he yields for that purpose; and it is within the discretion of the Member in charge whether, and to whom, he will yield. 105 CONG. REC. 1405, 1407, 86th Cong. 1st Sess., Jan. 29, 1959 [H. Res. 137].

§ 4.3 The Member calling up a privileged resolution from the Committee on Rules controls one hour of debate in the House, and the resolution is not subject to amendment unless the Member in charge yields for that purpose. 122 CONG. REC. 4625, 4626, 94th Cong. 2d Sess., Feb. 26, 1976 [H. Res. 868]. Normally, in such cases, the Member in charge does not yield for an amendment unless authorized to do so by the committee. 114 CONG. REC. 11304, 90th Cong. 2d Sess., May 1, 1968 [H. Res. 1150].

§ 4.4 A committee amendment printed in a resolution being considered in the House is not subject to amendment unless the Member controlling the resolution yields for that purpose or the previous question is voted down on the amendment. 119 CONG. REC. 37141, 37142, 37149-51, 93d Cong. 1st Sess., Nov. 15, 1973 [H. Res. 702].

§ 4.5 The demand for the previous question on an amendment cuts off further amendments thereto unless the previous question is rejected. 107 CONG. REC. 10080, 87th Cong. 1st Sess., June 12, 1961 [H.R. 7053].

§ 4.6 Where the previous question is ordered in the House on a pending resolution and the amendment thereto, the vote immediately recurs on the adoption of the resolution after the disposition of the amendment, and no intervening amendment is in order. 115 CONG. REC. 27-29, 91st Cong. 1st Sess., Jan. 3, 1969 [H. Res. 1].

§ 4.7 In the Committee of the Whole, where all time for debate on a section of a bill and amendments thereto has expired, amendments may still be offered to the section but are

voted on without debate unless printed in the *Congressional Record* pursuant to clause 6 of Rule XXIII. 111 CONG. REC. 6097, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362]; 113 CONG. REC. 32691-94, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388]; 114 CONG. REC. 22110, 90th Cong. 2d Sess., July 18, 1968 [H.R. 15263], holding that a motion to strike the last word is not in order after all time for debate on a bill has expired.

§ 4.8 The stage of amendment is passed in Committee of the Whole where a bill is being considered under a rule permitting only committee amendments and where no committee amendments are offered at the conclusion of general debate. 116 CONG. REC. 12092, 91st Cong. 2d Sess., Apr. 16, 1970 [H.R. 16311].

§ 4.9 An amendment may not be offered during time that has been yielded for a parliamentary inquiry. 110 CONG. REC. 5140, 88th Cong. 2d Sess., Mar. 12, 1964 [H.R. 8986].

§ 4.10 A Member recognized under the five-minute rule in Committee of the Whole may not yield to another Member to offer an amendment. 119 CONG. REC. 41171, 93d Cong. 1st Sess., Dec. 12, 1973 [H.R. 11450].

§ 5. Permissible Pending Amendments

§ 5.1 Only one perfecting amendment to the original text may be pending at a time. 105 CONG. REC. 12122-24, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978]; 108 CONG. REC. 13795, 87th Cong. 2d Sess., July 17, 1962 [H.R. 11974].

§ 5.2 Only one amendment to a pending amendment may be pending at one time. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979 [H.R. 3342]. Under this rule, amendments which might be subsequently offered may not be debated while another amendment is pending. 125 CONG. REC. p....., 96th Cong. 1st Sess., May 15, 1979 [H.R. 39].

§ 5.3 Where both an amendment and a substitute have been offered, each may have one amendment pending to it at one time. 105 CONG. REC. 15720, 86th Cong. 1st Sess., Aug. 12, 1959 [H.R. 8342]. It is thus possible to have pending an amendment to the amendment to the text, a substitute for the amendment to the text, and an amendment to the substitute. 108 CONG. REC. 13795, 87th Cong. 2d Sess., July 17, 1962 [H.R. 11974]; 120 CONG. REC. 24617, 93d Cong. 2d Sess., July 23, 1974 [H.R. 11500]; 120 CONG. REC. 25230, 25232, 93d Cong. 2d Sess., July 25, 1974 [H.R. 11500]. Likewise, where an amendment, an amendment thereto, and a substitute for the original amendment are pending, it is in order to offer an amendment to the substitute. 113 CONG. REC. 23936, 90th Cong. 1st Sess., Aug. 24, 1967 [H.R. 12048]. However, only one amendment to an amendment in the nature of a substitute or to a substitute therefor can be pending at one time. 120 CONG. REC. 33338, 93d Cong. 2d Sess., Oct. 1, 1974 [H. Res. 988]; 121 CONG. REC. 8501, 94th Cong. 1st Sess., Mar. 25, 1975. Of course, an amendment in the nature of a substitute may be considered as original text (not as an amendment) if a special rule adopted by the House so provides. Accordingly, where pursuant to a special rule a committee amendment in the nature of a substitute is being read as original text for purpose of amendment, there may be pending to that text (1) an amendment, (2) a substitute therefor, and (3) amendments to both the amendment and the substitute. 115 CONG. REC. 10066, 91st Cong. 1st Sess., Apr. 23, 1969 [H.R. 514].

§ 5.4 There is no limit to the number of amendments that may be offered either to an amendment or to a substitute, but only one amendment may be pending to such amendment or substitute at one time. 105 CONG.

REC. 15720, 86th Cong. 1st Sess., Aug. 12, 1959 [H.R. 8342].

§ 5.5 Where both an amendment in the nature of a substitute and a substitute therefor are pending, it is an order to also have an amendment to the amendment and an amendment to the substitute pending at the same time. 108 CONG. REC. 758, 87th Cong. 2d Sess., Jan. 23, 1962 [H.R. 7927]; 111 CONG. REC. 25418, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644]. This principle applies to amendments in the nature of a substitute for several paragraphs of a bill, and as often as amendments to the amendment are disposed of, further amendments may be offered and voted on prior to voting on amendments to the substitute. 119 CONG. REC. 21368–83, 93d Cong. 1st Sess., June 26, 1973 [H.R. 8877].

§ 5.6 Where there is pending an amendment and a substitute therefor, it is in order to offer an amendment to the original amendment. 116 CONG. REC. 24040, 91st Cong. 2d Sess., July 14, 1970 [H.R. 17654].

§ 5.7 Where there is pending an amendment, a substitute therefor, and an amendment to the substitute, it is in order to offer a germane amendment to the original amendment. 119 CONG. REC. 31338, 31339, 31341, 31343, 93d Cong. 1st Sess., Sept. 25, 1973 [H.J. Res. 727].

§ 5.8 Where there were pending to title I of a bill an amendment in the nature of a substitute for the title and a substitute therefor, the Chair indicated that: (1) both the amendment and the substitute were open to an amendment; (2) adoption of the substitute would preclude further amendment of either the amendment or the substitute; (3) rejection of the substitute would leave the amendment in the nature of a substitute open to further amendment. 115 CONG. REC. 10066, 91st Cong. 1st Sess., Apr. 23, 1969 [H.R. 514].

§ 5.9 Where there is pending an amendment and a substitute therefor, only one amendment to the substitute may be offered at one time. 119 CONG. REC. 34336, 93d Cong. 1st Sess., Oct. 16, 1973 [H.R. 9681]. But other amendments to the substitute are in order following disposition of the pending amendment to the substitute. 117 CONG. REC. 37082, 92d Cong. 1st Sess., Oct. 20, 1971 [H.R. 10367].

§ 5.10 While there is pending an amendment in the nature of a substitute for several paragraphs of a bill, there may be offered an amendment to the amendment, a substitute for the amendment, and an amendment to the substitute. 119 CONG. REC. 21368, 21369, 93d Cong. 1st Sess., June 27, 1973.

§ 5.11 Where there is pending an amendment in the nature of a substitute for an entire bill, a substitute therefor and an amendment to the substitute, it is in order to offer an amendment to the original amendment in the nature of a substitute. 116 CONG. REC. 39500, 91st Cong. 2d Sess., Dec. 2, 1970 [H.R. 19436].

§ 5.12 The Chairman indicated that where there was pending a paragraph of an appropriation bill, an amendment (in the nature of a substitute) for that paragraph and the succeeding paragraphs, perfecting amendments to both the original paragraph and any part of the amendment in the nature of a substitute, as well as a substitute for the latter, would be in order. 115 CONG. REC. 21218, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111].

§ 5.13 Where the Committee on Rules had reported a resolution making in order the consideration of a committee amendment in the nature of a substitute as an original bill for amendment, and making in order the text of another bill as an amendment in the nature of a substitute therefor, the Speaker pro tempore indicated that (1) amendments would be in order to such substitute at any point; (2) if the substitute text were offered to section 1 of the committee amendment, only that section of the committee amendment would be open to perfecting amendment while the substitute was pending; (3) if the substitute were defeat-

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ed in Committee of the Whole, the committee amendment would be read by sections for amendment. 116 CONG. REC. 19838, 91st Cong. 2d Sess., June 16, 1970 [H. Res. 1077].

§ 5.14 There may be pending at one time: (1) a motion to strike the pending title (or section, or paragraph) when offered before perfecting amendments are offered; (2) a perfecting amendment to the title; (3) an amendment to that amendment; (4) a substitute for the perfecting amendment; and (5) an amendment to the substitute. 112 CONG. REC. 18111-15, 89th Cong. 2d Sess., Aug. 3, 1966 [during consideration of H.R. 14765].

§ 5.15 Where five amendments were pending at one time, they were offered in the following order: (1) an amendment in the nature of a substitute for the resolution; (2) a substitute therefor; (3) perfecting amendments to the original text; (4) an amendment to the substitute; and (5) an amendment to the amendment in the nature of a substitute. 121 CONG. REC. 12765-76, 94th Cong. 1st Sess., May 1, 1975 [H. Con. Res. 218, concurrent resolution on the Budget].

§ 5.16 In one instance in the 94th Congress, five amendments were pending at one time and offered in the following order: (1) amendment in the nature of a substitute for a concurrent resolution; (2) a perfecting amendment to the concurrent resolution; (3) an amendment to the perfecting amendment; (4) a substitute for the perfecting amendment; and (5) an amendment to the substitute. 122 CONG. REC. 11602–16, 94th Cong. 2d Sess., Apr. 28, 1976 [H. Con. Res. 611].

§ 5.17 *Note:* There may be pending a motion to strike out a pending title of a bill, a perfecting amendment, and a substitute therefor. After the first perfecting amendment has been disposed of, another may be offered, and the vote on the motion to strike out is deferred until the amendment is disposed of. 115 CONG. REC. 28454, 28459, 28463, 91st Cong. 1st Sess., Oct. 3, 1969 [H.R. 14000].

§ 5.18 While there is pending a motion to strike out a portion of a bill, only one perfecting amendment to that portion may be offered at a time (although a series of perfecting amendments may be considered en bloc by unanimous consent). 121 CONG. REC. 18435, 94th Cong. 1st Sess., June 11, 1975 [H.R. 6860]. A perfecting amendment to that portion of the bill may be offered even though it may propose to strike out a lesser portion of the pending text and its adoption might preclude other perfecting amendments to that stricken portion. 121 CONG. REC. 18437, 94th Cong. 1st Sess., June 11, 1975 [H.R. 6860]. Such an amendment is voted on prior to voting on the motion to strike. 121 CONG. REC. 18819, 94th Cong. 1st Sess., June 13, 1975 [H.R. 6860].

§ 5.19 Where there was pending an amendment in the nature of a substitute for a bill, the Chair indicated that a substitute for the amendment in the nature of a substitute—proposing to strike out all after the enacting clause of the bill and to insert new language—would be in order. 120 CONG. REC. 28212, 93d Cong. 2d Sess., Aug. 13, 1974 [H.R. 15264].

§ 6. Amendments in the Third Degree

§ 6.1 An amendment to an amendment to an amendment is in the third degree and not in order. 105 CONG. REC. 11108, 86th Cong. 1st Sess., June 17, 1959; 111 CONG. REC. 20938, 20943, 89th Cong. 1st Sess., Aug. 18, 1965 [H.R. 9811]; 123 CONG. REC. 25252, 95th Cong. 1st Sess., July 27, 1977 [H.R. 7171].

§ 6.2 Until an amendment to the amendment is disposed of, no further amendment to the amendment may be offered. 105 CONG. REC. 10546, 10551-54, 86th Cong. 1st Sess., June 11, 1959 [H.R. 7246]; 109 CONG. REC. 7242, 88th

Cong. 1st Sess., Apr. 29, 1963 [H.R. 1762]. Accordingly, where there is pending an amendment and a perfecting amendment thereto, an amendment to the perfecting amendment is in the third degree and not in order; a further amendment may be in order when the perfecting amendment is disposed of or as a substitute for the original amendment. 119 CONG. REC. 13250, 13252, 93d Cong. 1st Sess., Apr. 19, 1973 [S. 502].

§ 6.3 A substitute for a pending amendment is subject to amendment, whereas a perfecting amendment to an amendment is not, as that would be in the third degree. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 8, 1979 [H.R. 2479]. When an amendment and a perfecting amendment thereto are pending, neither an amendment to, nor a substitute for, the perfecting amendment are in order, being in the third degree. 109 CONG. REC. 7242, 88th Cong. 1st Sess., Apr. 29, 1963 [H.R. 1762]; 125 CONG. REC. p. ....., 96th Cong. 1st. Sess., Apr. 9, 1979 [H.R. 3342].

§ 6.4 Where there was pending an amendment in the nature of a substitute for a bill and an amendment to that substitute, the Chair indicated that a further amendment to the amendment would be in the third degree and not in order. 117 CONG. REC. 43363-71, 92d Cong. 1st Sess., Nov. 30, 1971 [H.R. 11060]. Only one amendment to the amendment in the nature of a substitute can be pending at one time. 122 CONG. REC. 2361, 94th Cong. 2d Sess., Feb. 4, 1976 [H.R. 9464]. But a substitute for the original amendment in the nature of a substitute is yet in order. 122 CONG. REC. 34144, 94th Cong. 2d Sess., Sept. 30, 1976 [S. 3521]. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979 [H.R. 5860].

§ 6.5 While there may be pending at one time an amendment in the nature of a substitute for a bill, an amendment thereto, a substitute for the amendment in the nature of a substitute and an amendment to the substitute, an amendment to or a substitute for the amendment to the amendment in the nature of a substitute would be in the third degree and not in order. 119 CONG. REC. 41259, 41261, 93d Cong. 1st Sess., Dec. 13, 1973 [H.R. 11450]. See also 120 CONG. REC. 30650, 93d Cong. 2d Sess., Sept. 11, 1974 [H.R. 13565]; 122 CONG. REC. 17351, 94th Cong. 2d Sess., June 10, 1976 [H.R. 13367].

§ 6.6 A substitute for an amendment to an amendment is in the third degree and is not in order. 124 CONG. REC. 6282, 95th Cong. 2d Sess., Mar. 9, 1978; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 18, 1979. And where there is pending an amendment and a substitute therefor a further substitute is in the third degree and is not in order. 117 CONG. REC. 39092, 39096, 39098, 92d Cong. 1st Sess., Nov. 3, 1971 [H.R. 7248].

§ 6.7 An amendment to a substitute for an original amendment is in order and is not in the third degree. 120 CONG. REC. 25230, 25232, 93d Cong. 2d Sess., July 25, 1974 [H.R. 11500]. Accordingly, it is in order to offer a perfecting amendment to a substitute for a pending amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 2, 1979 [H. Con. Res. 107]. And the adoption of perfecting amendments to an amendment do not preclude the offering of further amendments to a substitute for an amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 39].

§ 6.8 Where there is pending an amendment in the nature of a substitute and a perfecting amendment thereto, the perfecting amendment can be modified only by unanimous consent, as an amendment to the perfecting amendment would be in the third degree. 120 CONG. REC. 33565-67, 93d Cong. 2d Sess., Oct. 2, 1974 [H. Res. 988]. Similarly, there may be pending at one time an amendment in the nature of a substitute, a substitute for the original proposition, a perfecting amendment to the amendment in the nature of a substitute and a perfecting

amendment to the substitute, but any further amendment to the perfecting amendments is in the third degree. 124 CONG. REC. 14393, 95th Cong. 2d Sess., May 18, 1978.

§ 6.9 In the Committee of the Whole, pro forma amendments are technically not in order to amendments to a pending amendment or to amendments to a substitute therefor if the point of order is raised, as in either case they would constitute amendments in the third degree. But Chairmen have hesitated to rule out of order pro forma amendments as being in the third degree since the Committee has the power to close debate when it chooses, and has permitted such amendments to be offered by unanimous consent. 120 CONG. REC. 33572, 93d Cong. 2d Sess., Oct. 2, 1974 [H. Res. 988]. See also 92 CONG. REC. 848, 79th Cong. 2d Sess., Feb. 4, 1946, where the Chair declined to initiate action in ruling a pro forma amendment out of order as in the third degree.

§ 6.10 A special rule reported from the Committee on Rules may permit the offering of amendments in the third and fourth degrees. 121 CONG. REC. 4593, 94th Cong. 1st Sess., Feb. 27, 1975 [H. Res. 259].

§ 6.11 Where there is pending an amendment and an amendment thereto, a modification of the latter amendment is in order only by unanimous consent and further amendment would be in the third degree, but a substitute for the original amendment remains in order. 121 CONG. REC. 20863, 94th Cong. 1st Sess., June 25, 1975 [H.R. 8069].

§ 6.12 In one instance, the House, by unanimous consent, agreed to an amendment (in the third degree) to a Senate amendment to a House amendment to a Senate amendment to a House bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 19, 1979 [H.R. 4998].

B. READING FOR AMENDMENT; WHEN TO OFFER AMENDMENT

§ 7. In General; Reading by the Clerk

§ 7.1 Bills are ordinarily read for amendment by sections or paragraphs in sequence. *House Rules and Manual* (96th Cong.) § 872. However, by unanimous consent, the Committee of the Whole may vary the sequence in which the portions of a bill are read for amendment under the five-minute rule (if a special rule adopted by the House is not directly changed thereby). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 12, 1979 [H.R. 4040]. In this instance, by unanimous consent, the Committee of the Whole agreed to consider for amendment designated sections in the last title of the bill, and to then consider the remainder of the bill by titles from beginning to end.

§ 7.2 Where a joint resolution is read for amendment in the Committee of the Whole, the resolving clauses are read for amendment before consideration is given to the preamble. 114 CONG. REC. 12088 et seq., 90th Cong. 2d Sess., May 7, 1968 [H.J. Res. 958].

§ 7.3 When the time for debate on a bill is closed by unanimous consent prior to the conclusion of the reading thereof, the remainder of the bill is read but pro forma amendments are not then in order. 114 CONG. REC. 26566, 26574, 90th Cong. 2d Sess., Sept. 12, 1968 [H.R. 18707].

§ 7.4 Where there is pending an amendment to a section and a substitute therefor, an amendment to the amendment proposing to amend another section of the original text is not in order. 120 CONG. REC. 24617, 93d Cong. 2d Sess., July 23, 1974 [H.R. 11500].

§ 7.5 Where a bill containing a committee amendment in the nature of a substitute is con-

sidered in the House as in Committee of the Whole by unanimous consent, the Clerk reads the first section of the original bill and immediately reports the amendment in the nature of a substitute, which is open to amendment at any point. 120 CONG. REC. 25516, 93d Cong. 2d Sess., July 29, 1974 [H.R. 15643].

§ 7.6 A special rule providing for reading of a committee amendment in the nature of a substitute as an original bill by sections requires the reading of each section in its entirety before amendments to that section are in order, and does not permit amendments to be offered to paragraphs within each section as read. 120 CONG. REC. 28419, 93d Cong. 2d Sess., Aug. 15, 1974 [H.R. 12859].

§ 7.7 Where a committee amendment in the nature of a substitute was being read for amendment as an original bill by sections, the Chair indicated that section 2 of the committee amendment—proposing to add several new sections to existing law—would be read in its entirety and then open to amendment at any point. 120 CONG. REC. 28419, 93d Cong. 2d Sess., Aug. 15, 1974 [H.R. 12859, the Federal Mass Transportation Act of 1974].

§ 7.8 Where the House adopts a special rule providing for the offering of a substitute for a committee amendment in the nature of a substitute, the substitute must be read in its entirety and is open to amendment at any point when read, and a unanimous-consent request in Committee of the Whole to consider the substitute by sections for amendment is not in order. 120 CONG. REC. 30070, 30074, 30075, 93d Cong. 2d Sess., Aug. 22, 1974 [H.R. 13565].

§ 7.9 Where there was pending an amendment in the nature of a substitute for a resolution, an amendment drafted to page and lines of the original resolution rather than to the amendment in the nature of a substitute was ruled out of order, since that portion of the original text was not open to amendment at that point. 120 CONG. REC. 34463, 34464, 93d Cong. 2d Sess., Oct. 8, 1974 [H. Res. 988].

§ 7.10 In response to a parliamentary inquiry, the Chairman indicated that the adoption of an amendment adding a new section to a bill being read for amendment by sections would preclude further amendment to the pending section. 121 CONG. REC. 7666, 94th Cong. 1st Sess., Mar. 20, 1975 [H.R. 4296].

§ 7.11 A section of a bill having been read and perfected in part by amendment, a motion to strike that section may still be offered before the Clerk reads the next section. 121 CONG. REC. 10377, 10378, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 5901].

§ 7.12 Where pursuant to a special rule a committee amendment in the nature of a substitute printed in the *Congressional Record* is being read by sections as an original bill for amendment, and an amendment in the nature of a substitute therefor is offered from the floor after the first section (consisting only of the short title of the bill) is read, only the amendment offered from the floor is open to amendment at any point when read. 122 CONG. REC. 33062, 33065, 94th Cong. 2d Sess., Sept. 28, 1976 [H.R. 15]. *Note:* The only portion of the committee amendment being read as an original bill which was open to amendment was the first section.

§ 8. Amendments to Text Passed in the Reading

§ 8.1 In the Committee of the Whole amendments to a section are in order after the section has been read (111 CONG. REC. 15162, 89th Cong. 1st Sess., June 29, 1965) and remain in order until the Clerk has read the next portion to be considered. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 13 1979 [H.R. 4040]. The fact that the Committee rises after the section is read, with no Members seeking

to offer amendments at the time, does not preclude amendment when the Committee resumes its sitting. 111 CONG. REC. 15162, 89th Cong. 1st Sess., June 29, 1965; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 13, 1979 [H.R. 4040].

§ 8.2 When a bill consists of only one section, the entire bill is read before amendments may be offered. 109 CONG. REC. 4081, 88th Cong. 1st Sess., Mar. 13, 1963 [H.R. 2440]; 111 CONG. REC. 18630, 89th Cong. 1st Sess., July 28, 1965 [H.R. 77].

§ 8.3 An amendment is not in order which would change a section or portion of a bill which has been passed in the reading. 117 CONG. REC. 36194, 36211, 92d Cong. 1st Sess., Oct. 14, 1971 [H.R. 10835]. The amendment comes too late when offered at that time (111 CONG. REC. 23978, 89th Cong. 1st Sess., Sept. 15, 1965), it being out of order to return to a section which has been passed in the reading. 105 CONG. REC. 11789, 86th Cong. 1st Sess., June 24, 1959 [H.R. 3]. See also 108 CONG. REC. 19465, 19470, 19475, 87th Cong. 2d Sess., Sept. 14, 1962 [S. 2768], where objection was made to a unanimous-consent request to return to a previous section for the purpose of further amendment.

§ 8.4 An amendment offered as a new section is in order to a bill being read by sections after the Clerk has read up to, but not beyond, the point at which the amendment would be inserted. The amendment must be offered after the consideration of the section of the bill which it would follow, and comes too late after the next section of the bill has been read for amendment. 120 CONG. REC. 22026, 22028, 93d Cong. 2d Sess., July 2, 1974 [H.R. 15465]; 124 CONG. REC. 30675, 95th Cong. 2d Sess., Sept. 21, 1978 [H.R. 12611]. A section is considered passed for the purpose of amendment after an amendment inserting a new section has been adopted following that section. 113 CONG. REC. 29312, 90th Cong. 1st Sess., Oct. 18, 1967 [H.J. Res. 888]; 117 CONG. REC. 5856-58, 92d Cong. 1st Sess., Mar. 10, 1971 [H.R. 4246], holding that where a bill consisting of two sections has been read and committee amendments adding two new sections thereafter have been agreed to, an amendment to section 2 of the original bill comes too late and is not in order. 118 CONG. REC. 13523, 92d Cong. 2d Sess., Apr. 19, 1972 [H.R. 10488]. An amendment adding a new section at the end of a bill is in order after the last section of the bill has been read even though other amendments adding new sections have been adopted. 124 CONG. REC. 29563, 95th Cong. 2d Sess., Aug. 14, 1978 [H.R. 12931], indicating that the fact that the last paragraph of a general appropriation bill (containing the short title of the bill) has been read does not preclude the offering of an amendment inserting a new paragraph thereafter if germane to the bill as a whole.

§ 8.5 A point of order that an amendment to a section or a paragraph of a bill comes too late does not lie where the Member offering the amendment was standing and seeking recognition before the section or paragraph was passed in the reading. 124 CONG. REC. 16779, 95th Cong. 2d Sess., June 8, 1978 [H.R. 12929]. For a similar ruling, see 117 CONG. REC. 37763, 92d Cong. 1st Sess., Oct. 27, 1971 [H.R. 11418], where a Member offering an amendment was standing and seeking recognition at the time the pertinent paragraph was read but the request for recognition was inaudible to the Chair.

§ 9. Amendments to Text Not Yet Read; Amendments En Bloc

§ 9.1 An amendment which goes beyond the scope of the pending section or paragraph and in effect modifies a paragraph or section which has not yet been reached in the reading is not in order. 115 CONG. REC. 21217, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111]. It

is not in order to strike out (119 CONG. REC. 25829, 93rd Cong. 1st Sess., July 25, 1973 [H.R. 8480]) or otherwise amend portions of a bill not yet read for amendment. 122 CONG. REC. 16200, 94th Cong. 2d Sess., June 2, 1976 [H.R. 13680]. Even committee amendments printed in a bill are not considered until the section where they appear is read for amendment (123 CONG. REC. 9355, 95th Cong. 1st Sess., Mar. 29, 1977 [H.R. 5045]), although committee amendments are occasionally considered en bloc by unanimous consent.

§ 9.2 To a bill being read for amendment by sections, an amendment proposing to strike out a title consisting of several sections is not in order following the reading of the first section. 119 CONG. REC. 25829, 93d Cong. 1st Sess., July 25, 1973 [H.R. 8480]. Where only the first title of a bill had been read for amendment, an amendment proposing to strike out portions of the bill not yet read, and not properly drafted as an amendment in the nature of a substitute for the bill, was ruled out of order. 122 CONG. REC. 16200, 94th Cong. 2d Sess., June 2, 1976 [H.R. 13680].

§ 9.3 Amendments to the pending title of a bill and to a subsequent title may be offered en bloc only by unanimous consent. 118 CONG. REC. 28886, 92d Cong. 2d Sess., Aug. 17, 1972 [H.R. 13915]. Similarly, to a bill being read for amendment by sections, amendments to more than one section may be considered en bloc by unanimous consent only. 123 CONG. REC. 20523, 95th Cong. 1st Sess., Oct. 5, 1977 [H.R. 8410]. It follows that amendments to strike out the pending section of a bill and a subsequent section which has not been read may be offered en bloc only by unanimous consent. 121 CONG. REC. 10377, 10378, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 5901].

§ 9.4 Motions to strike out and insert provisions on diverse pages and lines of a bill and to insert a new section constitute separate amendments which can be offered en bloc only by unanimous consent. 118 CONG. REC. 13641, 92d Cong. 2d Sess., Apr. 20, 1972 [H.R. 14070].

§ 9.5 It is not in order, during the stage of amendment, to seek to amend a paragraph not yet reached in the reading by offering a substitute for several paragraphs which repeats without change a number of intervening paragraphs of the bill and defers substantive change to a portion of the bill not yet read. 115 CONG. REC. 21217, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111].

§ 9.6 An amendment is not in order to a portion of a bill (or amendment read as an original bill) until that portion has been read (124 CONG. REC. 7559, 95th Cong. 2d Sess., Mar. 20, 1978 [H.R. 7700]) except by unanimous consent. 107 CONG. REC. 20303, 87th Cong. 1st Sess., Sept. 19, 1961 [H.R. 9118] (where by unanimous consent amendments offered to a section of a bill not yet read were considered in Committee of the Whole); 113 CONG. REC. 18662, 90th Cong. 1st Sess., July 12, 1967 [H.R. 10595]. Unanimous consent is likewise required in order to consider en bloc amendments affecting portions of a bill which have not yet been read. 124 CONG. REC. 24686, 95th Cong. 2d Sess., Aug. 7, 1978 [H.R. 136535]. Unanimous consent is required to consider en bloc separate committee amendments printed in a bill even where a special rule adopted by the House provides that the bill is considered as having been read for amendment and that such committee amendments are to be considered before other amendments. 124 CONG. REC. 25453, 95th Cong. 2d Sess., Aug. 10, 1978 [H.R. 13511].

§ 9.7 Where there was pending a unanimous-consent request that several amendments to sections of the bill which had not been read be considered en bloc, the Chair indicated that those sections would be open for amendment as they were read if the pending amendments were rejected. 117 CONG. REC. 29094, 92d Cong. 1st Sess., Aug. 3, 1971 [H.R. 9910].

§ 9.8 Where a bill is being considered under a special rule providing for consideration en bloc of certain committee amendments printed in the bill, the Chairman directs the Clerk to report the amendments en bloc and they need not be offered from the floor. 121 CONG. REC. 21630, 94th Cong. 1st Sess., July 8, 1975 [H.R. 49].

§ 10. Amendments to Bills Being Read by Title or Part

§ 10.1 Where a bill is read for amendment by titles, committee amendments to a pending title are first considered before the Chair recognizes Members to offer additional amendments. 117 CONG. REC. 40593, 92d Cong. 1st Sess., Nov. 11, 1971 [H.R. 11341].

§ 10.2 When a bill is being read by titles, an amendment to a title that has not been read is not in order. 112 CONG. REC. 18728, 89th Cong. 2d Sess., Aug. 9, 1966 [H.R. 14765].

§ 10.3 Where a bill is being read by titles, an amendment may not be offered to a title that has been passed in the Clerk's reading, return to a previous title being permitted only by unanimous consent. 110 CONG. REC. 2290, 88th Cong. 2d Sess., Feb. 6, 1964 [H.R. 7152]. In reading a bill for amendment by title pursuant to a special order, a title is not passed until the reading of the next title has begun. See 111 CONG. REC. 25437, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644]. Since the return to a previous title for purposes of amendment is by unanimous consent only, the Chair may decline recognition to offer an amendment adding a new title to a bill until all amendments to the pending title have been disposed of. 124 CONG. REC. 7333, 95th Cong. 2d Sess., Mar. 16, 1978 [H.R. 50].

§ 10.4 Where pursuant to a special order a bill is being considered for amendment by "parts," and several sections precede part I, each of those sections is considered as a separate part for the purpose of amendment. 123 CONG. REC. 26124, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 8444]. And where a proposition being read by titles pursuant to a special order contains several sections preceding the first title, those sections are read separately for amendment absent unanimous consent that they be read en bloc. 121 CONG. REC. 32575, 32576, 94th Cong. 1st Sess., Oct. 9, 1975 [H.R. 200]. Thus, where a committee amendment in the nature of a substitute is being read for amendment by titles instead of sections, and title I of that substitute is preceded by several sections, the Clerk reads separately those sections for amendment before title I is read. 118 CONG. REC. 28870, 92d Cong. 2d Sess., Aug. 17, 1972 [H.R. 13915]. The same procedure was followed at 122 CONG. REC. 29216, 29217, 94th Cong. 2d Sess., Sept. 8, 1976 [H.R. 10498].

§ 10.5 A title of a bill is considered as having been passed in the reading for amendment if an amendment inserting a new title to follow thereafter is agreed to. 120 CONG. REC. 8262, 93d Cong. 2d Sess., Mar. 26, 1974 [H.R. 69]. It follows that the adoption of an amendment adding a new title to a bill being read by titles precludes further amendment to the preceding title. 124 CONG. REC. 7336, 95th Cong. 2d Sess., Mar. 16, 1978 [H.R. 50]. Thus, the Committee of the Whole having adopted an amendment inserting a new title II in a measure being read for amendment by titles, the Chairman indicated that further amendments to title I would be precluded. 120 CONG. REC. 8285, 93d Cong. 2d Sess., Mar. 26, 1974 [H.R. 69].

§ 10.6 Where pursuant to a special rule a bill is being read for amendment by titles instead of by sections, no amendment to the pending title, including pro forma amendments, can be offered until the entire title is read or its reading dispensed with by unanimous consent. 122 CONG. REC. 29732, 94th Cong. 2d Sess., Sept. 10, 1976 [H.R. 10498].

§ 10.7 Amendments to several portions of a title of a bill being read by titles may be offered as one amendment where they relate to the same subject matter, and unanimous consent is not required for their consideration en bloc. 124 CONG. REC. 33810, 95th Cong. 2d Sess., Oct. 5, 1978 [H.R. 13471].

§ 11. Amendments to Bills Considered as Read and Open to Amendment

§ 11.1 A bill may be considered as read and open to amendment at any point only by unanimous consent, and a motion to that effect is not in order. 121 CONG. REC. 16895, 94th Cong. 1st Sess., June 4, 1975 [H.R. 6219]. Thus, the Committee of the Whole may, by unanimous consent, agree that a bill or amendment in the nature of a substitute being read by sections under the five-minute rule be considered as read and open to amendment at any point, but a motion to that effect is not in order. 118 CONG. REC. 22404, 92d Cong. 2d Sess., June 26, 1972 [H.R. 15507]; 122 CONG. REC. 19296, 94th Cong. 2d Sess., June 18, 1976 [H.R. 14239]; 123 CONG. REC. 16976, 95th Cong. 1st Sess., May 26, 1977 [H.R. 6161]. An amendment in the nature of a substitute being read as an original bill pursuant to a special rule is read by sections for amendment (unless otherwise specified in the rule), and the amendment may be considered as read and open for amendment at any point by unanimous consent only. 124 CONG. REC. 7559, 95th Cong. 2d Sess., Mar. 20, 1978 [H.R. 7700].

§ 11.2 During the reading of a section for amendment, that section can be considered as read and open to amendment at any point only by unanimous consent. 118 CONG. REC. 28870, 92d Cong. 2d Sess., Aug. 17, 1972 [H.R. 13915].

§ 11.3 When a bill is considered as read and open for amendment by unanimous consent the Chair first entertains points of order against the bill prior to recognizing for amendments. 110 CONG. REC. 11657, 88th Cong. 2d Sess., May 21, 1964 [H.R. 11296]; 110 CONG. REC. 13974, 88th Cong. 2d Sess., June 16, 1964 [H.R. 11579].

§ 11.4 Where unanimous consent is granted that the remainder of a bill be considered as read and open for amendment at any point, amendments may then be offered to any portion of the bill not yet read for amendment at the time the permission is granted. 116 CONG. REC. 4028, 91st Cong. 2d Sess., Feb. 19, 1970 [H.R. 15931]. Of course, amendments remain in order to that portion of the bill pending when the request was granted. 121 CONG. REC. 11546, 94th Cong. 1st Sess., Apr. 23, 1975; 121 CONG. REC. 16899, 94th Cong. 1st Sess., June 4, 1975. But an agreement that the remainder of the bill be considered read and open for amendment at any point does not admit an amendment to a portion of the bill already passed in the reading. 115 CONG. REC. 29219, 91st Cong. 1st Sess., Oct. 8, 1969 [H.R. 14159].

§ 11.5 Where, by unanimous consent, a bill is considered as read and open to amendment at any point, all perfecting committee amendments printed in the bill are disposed of prior to consideration of amendments to the bill offered from the floor. 121 CONG. REC. 11533, 94th Cong. 1st Sess., Apr. 23, 1975; 122 CONG. REC. 2872, 94th Cong. 2d Sess., Feb. 9, 1976 [H.R. 5808]. The committee amendments are reported in the order in which they appear in the bill, and the question is put on each such amendment as it is read; and any floor amendment to one of these amendments must be offered while the committee amendment is pending. But a Member having an amendment to a section of the bill that is not amended by the committee amendments may still offer such an amendment after all the committee amendments have been considered. 115 CONG. REC.

16275, 91st Cong. 1st Sess., June 18, 1969 [HR. 6543].

§ 11.6 Under the current practice in the House as in Committee of the Whole, a bill is considered as read and open for amendment at any point. The Speaker has indicated that where a measure is being considered in the House as in Committee of the Whole, it is considered as read and open for amendment at any point under the five-minute rule. 116 CONG. REC. 28050, 91st Cong. 2d Sess., Aug. 10, 1970 [H.R. 18619]. And this is true despite the fact that the House has previously adopted a special order providing that the bill be read by titles in the Committee of the Whole. 123 CONG. REC. 3977, 3981, 95th Cong. 1st Sess., Feb. 9, 1977 [H.R. 692]. Similarly, where a joint resolution is considered, by unanimous consent, in the House as in the Committee of the Whole, the resolution is considered as read and open to amendment at any point. 121 CONG. REC. 19172, 19174, 94th Cong. 1st Sess., June 17, 1975 [H.J. Res. 499].

§ 11.7 Where the first section of a bill has, by unanimous consent, been considered as read and open to amendment, an amendment inserting a new section at the end of that section of the bill is in order. 118 CONG. REC. 22404, 92d Cong. 2d Sess., June 26, 1972 [H.R. 15507].

§ 11.8 Where a bill consisting of several titles was considered as read and open to amendment at any point under a special "modified closed rule" permitting germane amendments only to certain portions of titles but permitting committee amendments to any portion of the bill, the Chair first recognized a Member to offer committee amendments to title I and then recognized other Members to offer amendments to that title. 120 CONG. REC. 27258, 27259, 93d Cong. 2d Sess., Aug. 7, 1974 [H.R. 16090].

§ 11.9 Where, after several sections of a bill have been read, the remainder of the bill is considered as read and open to amendment at any point by unanimous consent, an amendment in the nature of a substitute for the entire bill may be offered since it would be in order at the end of the reading of the bill. 121 CONG. REC. 11544, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 11.10 Where a special order provided that a bill be considered for amendment by parts and that each part and the committee amendments thereto be considered as having been read, the Chair directed the Clerk to designate only the page and line number of the pending part or committee amendment. The text of the pending part or committee amendment was printed in full at that point in the *Congressional Record.* 123 CONG. REC. 26124, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 8444].

§ 11.11 Where a bill is being read by sections for amendment in Committee of the Whole pursuant to a special rule requiring such procedure, the Chair may decline to entertain a unanimous-consent request that only a portion of a section be considered as read and open to amendment. 124 CONG. REC. 25224, 95th Cong. 2d Sess., Aug. 9, 1978 [H.R. 12452].

§ 12. Amendments in the Nature of a Substitute for Several Paragraphs or Entire Bill

§ 12.1 An amendment in the nature of a substitute for a bill is in order after the first section of the bill has been read for amendment (124 CONG. REC. 7559, 95th Cong. 2d Sess., Mar. 20, 1978 [H.R. 7700]) or following the reading of the final section of the bill. 116 CONG. REC. 11649, 91st Cong. 2d Sess., Apr. 14, 1970 [H.R. 16916]; 119 CONG. REC. 24951, 24956, 93d Cong. 1st Sess., July 19, 1973 [H.R. 8860]. However, an amendment in the nature of a substitute for a bill is not in order at an intermediate stage of the reading. 121 CONG. REC. 11513, 11514, 94th Cong. 1st Sess., Apr.

23, 1975 (indicating that an amendment in the nature of a substitute could not be offered after the reading of the second section of the bill). See also 123 CONG. REC. 31543, 95th Cong. 1st Sess., Sept. 29, 1977 [H.R. 7010]. Of course, if the bill is considered as having been read for amendment, then an amendment in the nature of a substitute may be offered at any time during consideration of the bill. 123 CONG. REC. 9353, 95th Cong. 1st Sess., Mar. 29, 1977 [H.R. 5045].

An amendment in the nature of a substitute may ordinarily be offered after the reading of the first section of a bill being read by sections notwithstanding the pendency of committee amendments adding new sections to the bill. 121 CONG. REC. 35525, 94th Cong. 1st Sess., Nov. 7, 1975. But where a bill consists of one section and is therefore open to amendment at any point when read, committee amendments adding new sections are considered perfecting amendments and are disposed of prior to the offering of amendments in the nature of a substitute. 121 CONG. REC. 35525, 35526, 94th Cong. 1st Sess., Nov. 7, 1975 [H.R. 6346]. *Note:* In the case of a bill consisting of several sections, an amendment in the nature of a substitute should be offered after the reading of the first section and following disposition of perfecting amendments to the first section; but if a committee amendment adding a new section 2 were permitted to be considered first, its adoption would preclude the offering of an amendment in the nature of a substitute until the end of the bill.

Where a special rule makes in order the consideration of a designated amendment in the nature of a substitute (in lieu of committee amendments printed in the bill), the substitute may be offered after section 1 of the original bill is read. 124 CONG. REC. 30434, 95th Cong. 2d Sess., Sept. 20, 1978 [H.R. 1].

§ 12.2 *Note:* The earlier precedents indicate that amendments in the nature of a substitute for an entire bill are in order at the beginning of the bill only if notice is given that if the amendment is agreed to, subsequent motions to strike out the remaining sections or paragraphs of the bill will be offered as each section or paragraph is read. The more recent precedents, however, indicate that when an amendment in the nature of a substitute is offered at the end of the reading of the first section of the bill, notice of motions to strike out subsequent sections need not be given. See 119 CONG. REC. 18161, 93d Cong. 1st Sess., June 5, 1973 [H.R. 7935], where, in response to a parliamentary inquiry, the Chairman indicated that an amendment in the nature of a substitute for an entire bill could be offered following the reading of the first section of the bill for amendment.

§ 12.3 *Note:* To a bill being read for amendment by titles, an amendment in the nature of a substitute for the entire bill may be offered either after the reading of the "short title" of the bill (which is normally a separate section of the bill preceding title I) or at the conclusion of the reading of the whole bill. Where a bill is being read for amendment by titles and there is no separate section preceding title I, an amendment in the nature of a substitute for the entire bill may be offered after the reading of title I. 121 CONG. REC. 16754, 94th Cong. 1st Sess., June 3, 1975 [H.R. 6219]. See also 115 CONG. REC. 10066, 91st Cong. 1st Sess., Apr. 23, 1969 [H.R. 514]. Where a committee amendment proposing a new title I is offered as a perfecting amendment to the bill immediately after the Clerk begins to read the bill for amendment, the offering of an amendment in the nature of a substitute for the whole bill must be deferred pending the vote on the amendment adding the new title I. See 116 CONG. REC. 27197, 91st Cong. 2d Sess., Aug. 4, 1970; 116 CONG. REC. 27476-79, 91st Cong. 2d Sess., Aug. 5, 1970 [H.R. 18546]. An amendment in the nature of a substitute for a bill being read by titles is in order after the last title has been read notwithstanding disposition of an amendment inserting a new title at the

end of the bill. 124 CONG. REC. 7336, 95th Cong. 2d Sess., Mar. 16, 1978 [H.R. 50].

§ 12.4 When it is proposed to offer a single amendment in the nature of a substitute for several paragraphs of a bill which is being considered by paragraphs, the substitute may be offered to the first paragraph provided that notice is given that if it be agreed to, motions will be made to strike out the remaining paragraphs. 115 CONG. REC. 21218, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111]; 117 CONG. REC. 10062, 92d Cong. 1st Sess., Apr. 7, 1971 [H.R. 7016]; 118 CONG. REC. 21106, 21118–22, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417]. Indeed, it has been held that where an appropriation bill is being read by paragraphs, a substitute for several paragraphs of the bill may be offered to the first such paragraph only if notice is given that if the amendment is agreed to, motions will be subsequently made to strike out other paragraphs which would be supplanted thereby. 115 CONG. REC. 21217, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111]. See also 116 CONG. REC. 25345, 91st Cong. 2d Sess., July 22, 1970 [H.R. 18515], where an amendment in the nature of a substitute for several paragraphs of an appropriation bill was offered, and the proponent of the amendment announced his intention to strike several subsequent paragraphs of the bill if his amendment were agreed to. For other instances in which this procedure was followed with respect to an appropriation bill, see 120 CONG. REC. 33352, 33355, 93d Cong. 2d Sess., Oct. 1, 1974 [H.R. 16900]; 121 CONG. REC. 10357, 94th Cong. 1st Sess., Apr. 16, 1975 [H.R. 5901].

§ 12.5 A substitute for an amendment in the nature of a substitute for several paragraphs of a bill is in order if it is coextensive with or less extensive than the amendment in the nature of a substitute (that is, does not affect more paragraphs than those proposed to be changed by the original amendment), and notice by the proponent of the substitute of his intention to strike subsequent paragraphs is not required. See 120 CONG. REC. 33352, 33355, 93d Cong. 2d Sess., Oct. 1, 1974 [H.R. 16900]. To the same effect, see 115 CONG. REC. 21221, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111]. *Note:* In this instance, the substitute proposed encompassed less than the amendment in the nature of a substitute; hence no notice of intention to strike succeeding paragraphs was required. A substitute covering more paragraphs than the amendment to which offered would not be in order.

§ 12.6 The Chair indicated, in response to a parliamentary inquiry, that if a pending amendment in the nature of a substitute for several paragraphs of an appropriation bill were defeated, the reading of the bill for amendment, by paragraph, would then continue and each paragraph would be subject to amendment when read. 115 CONG. REC. 21218, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111].

§ 12.7 Where a bill containing a committee amendment in the nature of a substitute is considered in the House as in Committee of the Whole by unanimous consent, the Clerk reads the first section of the original bill and immediately reports the amendment in the nature of a substitute, which is open to amendment at any point. 120 CONG. REC. 25516, 93d Cong. 2d Sess., July 29, 1974 [H.R. 15643, the District of Columbia Public Higher Education Reorganization Act].

§ 12.8 Ordinarily, an amendment in the nature of a substitute for a bill must be read in its entirety, or the reading thereof dispensed with by unanimous consent, before amendments to any portion of such substitute may be offered. A unanimous-consent request in the Committee of the Whole to read the amendments in the nature of a substitute for amendment by sections is not in order; the substitute must be read in its entirety. 121 CONG. REC. 8490, 8491, 94th Cong. 1st Sess., Mar. 25, 1975

[H.R. 4222]. But if by special order the House has provided for the reading of an amendment in the nature of a substitute as an original bill for amendment, it is in order to offer an amendment in the nature of a substitute for the entire substitute after the reading of the first section thereof. 121 CONG. REC. 10481, 10482, 94th Cong. 1st Sess., Apr. 17, 1975 [H.R. 46]. Where the House has by special order provided for the reading by sections in the Committee of the Whole of a committee amendment in the nature of a substitute as an original bill, any amendment offered thereto must be read in its entirety; and the Committee of the Whole may not by unanimous consent order that an amendment in the nature of a substitute for the committee amendment be in turn read by sections for amendment. 121 CONG. REC. 8490, 8491, 94th Cong. 1st Sess., Mar. 25, 1975 [H.R. 4222].

§ 12.9 An amendment in the nature of a substitute is in order after an entire bill has been read and perfecting amendments have been adopted thereto, as long as such perfecting amendments have not changed the bill in its entirety. 123 CONG. REC. 31543, 95th Cong. 1st Sess., Sept. 29, 1977 [H.R. 7010]. Similarly, an amendment in the nature of a substitute may be offered for a bill (or for an amendment being considered as original text) after the reading thereof has been completed, if another amendment in the nature of a substitute has not been previously adopted. 124 CONG. REC. 14391, 95th Cong. 2d Sess., May 18, 1978.

§ 12.10 While under the five-minute rule an amendment in the nature of a substitute for a bill may ordinarily be offered either after the first section has been read or at the conclusion of reading of the bill, where a bill is being considered under a special rule precluding further amendment to the bill upon adoption of a committee amendment at the end thereof, an amendment in the nature of a substitute can only be offered after the first section is read, absent rejection of the committee amendment. After the first section of original text is read an amendment in the nature of a substitute may be offered, even if a special rule governing consideration would prohibit consideration of such an amendment at the end of the bill, and even if adoption of such an amendment would prohibit the consideration of other perfecting amendments specifically made in order by the special rule (unless the special rule specifically prohibits such an amendment from being offered at the beginning of the bill or substitute). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 23, 1980 [H.R. 7020].

C. OFFERING PARTICULAR KINDS OF AMENDMENTS; PRECEDENCE AND PRIORITIES

§ 13. In General; Perfecting Amendments

§ 13.1 A perfecting amendment to the text of a bill is in order and takes precedence over a pending motion to strike out the text, and is first acted upon. 109 CONG. REC. 2462, 2488, 88th Cong. 1st Sess., Feb. 7, 1963 [H.R. 7152]; 116 CONG. REC. 8188, 91st Cong. 2d Sess., Mar. 19, 1970; 123 CONG. REC. 32017, 95th Cong. 1st Sess., Oct. 3, 1977 [H.R. 3816]. Thus, an amendment inserting new words is in order and takes precedence over a pending motion to strike out that portion of the text. 116 CONG. REC. 8188-91, 91st Cong. 2d Sess., Mar. 19, 1970; 123 CONG. REC. 5370, 95th Cong. 1st Sess., Feb. 24, 1977. The pendency of a perfecting amendment to a title precludes the offering of an amendment to strike out the title; but the motion to strike may be offered following disposition of the perfecting amendment. 117 CONG. REC. 31132, 92d Cong. 1st Sess., Sept. 9, 1971 [H.R. 9727].

§ 13.2 A perfecting amendment adding words to, or deleting words from, a section or title is in order pending a motion to strike out that section or title. 117 CONG. REC. 39290, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248]; 119 CONG. REC. 22601-05, 93d Cong. 1st Sess., July 26, 1973 [H.R. 9360].

§ 13.3 Perfecting amendments to a paragraph may be offered (one at a time) while a motion to strike out the paragraph is pending, and such perfecting amendments are first disposed of. 112 CONG. REC. 7104-06, 7118, 89th Cong. 2d Sess., Mar. 29, 1966 [H.R. 14012]; 121 CONG. REC. 20570, 20573, 94th Cong. 1st Sess., June 24, 1975 [H.R. 8070]. Under this rule, where a perfecting amendment is offered and rejected, a second perfecting amendment may be offered prior to the vote on a motion to strike out. 108 CONG. REC. 6167-69, 87th Cong. 2d Sess., Apr. 10, 1962 [H.R. 10788]. And if the motion to strike out is ultimately defeated, further perfecting amendments to the pending text are yet in order. 112 CONG. REC. 18136, 89th Cong. 2d Sess., Aug. 3, 1966 [during consideration of H.R. 14765]; 123 CONG. REC. 32017, 95th Cong. 1st Sess., Oct. 3, 1977 [H.R. 3816].

§ 13.4 A perfecting amendment may be offered while a motion to strike out is pending, and if the perfecting amendment changes all the words proposed to be stricken out, and is adopted, the motion to strike out necessarily fails. 106 CONG. REC. 10560-63, 86th Cong. 2d Sess., May 18, 1960 [H.R. 7155].

§ 13.5 Where, by unanimous consent, several committee amendments are being considered en bloc, an amendment to perfect text proposed to be stricken by one of the en bloc amendments is in order; it takes precedence over that particular committee amendment, and is first acted upon. 109 CONG. REC. 14987, 88th Cong. 1st Sess., Aug. 14, 1963 [H.R. 6143].

§ 13.6 When a motion to strike out a portion of a bill is pending, perfecting amendments are in order to the text proposed to be stricken—not to the motion to strike. 112 CONG. REC. 18207, 89th Cong. 2d Sess., Aug. 4, 1966 [H.R. 14765].

§ 13.7 A perfecting amendment to a pending paragraph of an appropriation bill is in order and is not precluded by the intervention of an amendment in the nature of a substitute for the paragraph and several of those following. 115 CONG. REC. 21218, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111].

§ 13.8 Where there is pending an amendment in the nature of a substitute for a measure, it is in order to offer a perfecting amendment to the pending portion of the original text (122 CONG. REC. 11409-12, 94th Cong. 2d Sess., Apr. 27, 1976 [H. Con. Res. 611]), provided that that portion of the text has been read and is open to amendment. 116 CONG. REC. 38704, 91st Cong. 2d Sess., Nov. 24, 1970 [H.R. 16785]. Accordingly, where there is pending an amendment in the nature of a substitute and a substitute therefor, it is in order to offer a perfecting amendment to the pending portion of the original text, and the perfecting amendment is first voted upon. 121 CONG. REC. 12771-76, 94th Cong. 1st Sess., May 1, 1975 [H. Con. Res. 218]. Indeed, where an amendment in the nature of a substitute is pending to a proposition which is open to amendment at any point, a perfecting amendment to the original text may be offered, and a perfecting amendment to the amendment in the nature of a substitute may be offered, but the perfecting amendment to the original text is voted on first. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 3, 1979 [H. Con. Res. 107].

§ 13.9 For a perfecting amendment to a section of a bill, an amendment to perfect another portion of the section may not be offered as a substitute, but should be offered separately after the first perfecting amendment is dis-

posed of. 120 CONG. REC. 35177, 93d Cong. 2d Sess., Oct. 10, 1974 [H.R. 17027].

§ 13.10 A perfecting amendment offered to an amendment in the nature of a substitute may be offered again as an amendment to the original bill if the amendment in the nature of a substitute is first rejected. 122 CONG. REC. 33075, 94th Cong. 2d Sess., Sept. 28, 1976 [H.R. 15].

§ 13.11 Perfecting amendments to an amendment in the nature of a substitute may be offered and are disposed of, one at a time, while a substitute for the amendment is pending. 124 CONG. REC. 15309, 95th Cong. 2d Sess., May 24, 1978 [H.R. 10929]. Similarly, a perfecting amendment to a substitute may be offered while a perfecting amendment to the original amendment is pending. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 31, 1979.

§ 13.12 While a motion to strike out language in a bill is pending, a perfecting amendment to a portion of the language sought to be stricken may be offered, and it is further in order to offer an amendment in the second degree to such amendment, a substitute for said amendment, and an amendment to the substitute. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 18, 1979 [H.R. 4473].

§ 14. Motions to Strike

§ 14.1 A motion to strike out a section or paragraph is not in order while a perfecting amendment is pending (109 CONG. REC. 14757, 88th Cong. 1st Sess., Aug. 12, 1963 [H.R. 7525]; 109 CONG. REC. 24753, 24755, 88th Cong. 1st sess., Dec. 16, 1963 [H.R. 9499]; 120 CONG. REC. 17868, 17869, 93d Cong. 2d Sess., June 5, 1974 [H.R. 14747]), but where a motion to strike out is offered first, a motion to amend (perfect) part of the text proposed to be stricken is in order (109 CONG. REC. 6879, 88th Cong. 1st Sess., Apr. 24, 1963 [H.R. 12]), and the perfecting amendment may be to insert (118 CONG. REC. 34130, 92d Cong. 2d sess., Oct. 5, 1972 [H.R. 16656] or delete (105 CONG. REC. 11301, 11303, 86th Cong. 1st Sess., June 18, 1959 [H.R. 7500]) words encompassed by the motion to strike.

§ 14.2 While a motion to strike a pending portion of a bill will be held in abeyance until perfecting amendments to that portion are disposed of, a Member who has been recognized to debate his motion to strike may not be deprived of the floor by another Member who seeks to offer a perfecting amendment, but the perfecting amendment may be offered and voted on before the question is put on the motion to strike. 121 CONG. REC. 34564, 94th Cong. 1st Sess., Oct. 31, 1975 [H.R. 10024].

§ 14.3 A motion to strike out a section may be offered if a pending amendment to strike out the section and insert new language is rejected. 117 CONG. REC. 40593, 92d Cong. 1st Sess., Nov. 11, 1971 [H.R. 11341]. But if a perfecting amendment or amendments are adopted and alter all the words proposed to be stricken out, the motion to strike out necessarily fails. 106 CONG. REC. 10560-63, 86th Cong. 2d Sess., May 18, 1960 [H.R. 7155]. Whether or not the preferential perfecting amendments to the pending text are adopted or rejected, a vote must still be taken on the motion to strike (assuming that the perfecting amendments do not change the entire pending text). 123 CONG. REC. 32019, 32020, 95th Cong. 1st Sess., Oct. 3, 1977 [H.R. 3816].

§ 14.4 Since a provision must be perfected before the question is put on striking it out, a motion to strike out a paragraph or section may not be offered as a substitute for a pending motion to perfect the paragraph or section by a motion to strike and insert. 109 CONG. REC. 24753, 24755, 88th Cong. 1st Sess., Dec. 16, 1963 [H.R. 9499]; 120 CONG. REC. 17868, 17869, 93d Cong. 2d Sess., June 5, 1974 [H.R. 14747]. And this is true whether the pending perfecting amendment is a motion to strike out

and insert an entirely new text (112 CONG. REC. 26966, 89th Cong. 2d Sess., Oct. 14, 1966 [S. 3708]; 114 CONG. REC. 15889, 90th Cong. 2d Sess., June 4, 1968 [H.R. 17268]) or a portion of the text proposed to be stricken. 118 CONG. REC. 28400, 92d Cong. 2d Sess., Aug. 16, 1972 [H.R. 16071]. However, while the motion to strike out is not in order in this situation as a substitute, it may be offered after disposition of the perfecting amendment to strike out and insert if more comprehensive in scope. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 25, 1979 [S. 1030].

§ 14.5 If the pending title of a bill is perfected by an amendment adding a new section thereto, and the Committee of the Whole thereafter agrees to a motion to strike out the entire title, the words added by the perfecting amendment are eliminated along with the rest of the title. 115 CONG. REC. 28454, 91st Cong. 1st Sess., Oct. 3, 1969 [H.R. 14000]. Similarly, in response to a parliamentary inquiry, the Chair indicated that (1) a perfecting amendment adding words to a paragraph would be voted on before a pending motion to strike such paragraph, and (2) the adoption of the motion to strike the paragraph would strike the perfecting language, if adopted, along with the rest of the paragraph. 123 CONG. REC. 5325, 95th Cong. 1st Sess., Feb. 24, 1977.

§ 14.6 Where an amendment in the nature of a substitute for several paragraphs of an appropriation bill has been offered, with notice that if it is agreed to motions will then be made to strike out the following paragraphs as they are read, such paragraphs are subject to perfecting amendment, as well as to the motion to strike, when read. 115 CONG. REC. 21221, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111].

§ 14.7 For an amendment inserting an additional labor standard to those contained in a section of a bill, a motion to strike out the entire section was ruled out as: (1) not a proper substitute for the perfecting amendment; and (2) not germane (going beyond the scope of the perfecting amendment). 120 CONG. REC. 17868, 17869, 93d Cong. 2d Sess., June 5, 1974 [H.R. 14747, to amend the Sugar Act of 1948].

§ 14.8 To a motion to strike out certain text and insert new language, a simple motion to strike out all that text may not be offered as an amendment, as it would have the effect of dividing the motion to strike out and insert which is prohibited by Rule XVI clause 7. 120 CONG. REC. 25240, 25241, 93d Cong. 2d Sess. July 25, 1974 [H.R. 11500], holding that, to an amendment striking out a title and inserting new language, a motion to strike out that title is not in order as an amendment. See also 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 19, 1979 [H.R. 2444].

§ 14.9 Where there is pending an amendment to strike out a section of a bill, a perfecting amendment to that section may be offered and disposed of prior to the vote on striking out the section. 120 CONG. REC. 38749, 38750, 38754, 93d Cong. 2d Sess., Dec. 10, 1974 [H.R. 5385].

§ 14.10 When it is proposed to strike out certain words in a section, it is not in order to amend that amendment by including additional and unrelated words of the section in the text proposed to be stricken. In such a case, an amendment striking out additional language of the text should be offered as a separate amendment to the text and not as an amendment to the first amendment. 122 CONG. REC. 16208–10, 94th Cong. 2d Sess., June 2, 1976 [H.R. 13680].

§ 14.11 In construing a motion to strike language in a bill, the Chair takes into consideration the use of quotation marks in determining the words being stricken. 124 CONG. REC. 24971, 95th Cong. 2d Sess., Aug. 8, 1978 [H.R. 13635].

§ 15. Motions to Strike Out and Insert

§ 15.1 A motion to strike out and insert takes precedence of a simple motion to strike out and is first acted on. 111 CONG. REC. 25696, 25699, 89th Cong. 1st Sess., Sept. 30, 1965 [H.R. 10281].

§ 15.2 The motion to strike out and insert takes precedence as a perfecting amendment over a motion to strike out, and if the perfecting amendment is agreed to, and is coextensive with the material proposed to be stricken, the motion to strike out the amended text fails and is not acted on. 116 CONG. REC. 42227, 42230, 91st Cong. 2d Sess., Dec. 17, 1970 [H.R. 19446].

§ 15.3 A motion to strike out and insert is not in order as a substitute for a simple motion to strike out (109 CONG. REC. 2462, 2488, 88th Cong. 1st Sess., Feb. 7, 1963 [H.R. 7152]; 114 CONG. REC. 12606, 12608, 90th Cong. 2d Sess., May 9, 1968 [H.R. 15951]), nor, conversely, is a motion to strike out a proper substitute for a motion to strike out and insert. 117 CONG. REC. 39092 et seq., 92d Cong. 1st Sess., Nov. 3, 1971 [H.R. 7248]. However, a motion to strike out and insert may be in order as a germane substitute for a pending motion of the same type. 120 CONG. REC. 24450, 24451, 24453, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500].

§ 15.4 While a motion to strike out and insert may not be offered as a substitute for a pending motion to strike, it may be offered as a perfecting amendment to the text. 110 CONG. REC. 2462, 2488, 88th Cong. 2d Sess., Feb. 7, 1964 [H.R. 7152]. And the perfecting amendment to the text proposed to be stricken may be offered and voted upon prior to the vote on the motion to strike out. 120 CONG. REC. 35733-35, 93d Cong. 2d Sess., Oct. 16, 1974 [H.J. Res. 1163].

§ 16. Substitute Amendments

§ 16.1 To qualify as a substitute, an amendment must treat in the same manner the same subject carried by the amendment for which it is offered. Thus, for an amendment inserting new text in a bill, a proposition not only inserting similar language but also striking out original text from the bill may not be germane or qualify as a substitute. 122 CONG. REC. 29237, 94th Cong. 2d Sess., Sept. 8, 1976 [H.R. 10498]. However, a substitute for a pending amendment may be offered to change a different or lesser portion of the pending section if it relates to the same subject as the amendment. 124 CONG. REC. 23732, 95th Cong. 2d Sess., Aug. 1, 1978 [H.R. 12514]. In this instance, for a perfecting amendment making several changes in a pending section, a substitute adding language at the end of the section rather than striking and inserting within the section was held in order as relating to the same subject as the amendment. See also 124 CONG. REC. 1818, 95th Cong. 2d Sess., Feb. 1, 1978 [H.R. 1614], ruling that, for an amendment perfecting a bill, an amendment germane thereto perfecting a lesser portion of the same text is in order as a substitute.

§ 16.2 A substitute for an amendment is in order so long as it is germane thereto and proposes to make some change in the original language being amended. 120 CONG. REC. 24450, 24451, 24453, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500].

§ 16.3 For a perfecting amendment to a section of a bill, an amendment to perfect another portion of the section may not be offered as a substitute, but should be offered separately after the first perfecting amendment is disposed of. 120 CONG. REC. 35177, 93d Cong. 2d Sess., Oct. 10, 1974 [H.R. 17027].

§ 16.4 For a perfecting amendment striking out a figure and inserting a new amount, a proposal to strike out the entire paragraph con-

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taining that figure may not be offered as a substitute. 120 CONG. REC. 21038, 21039, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544].

§ 16.5 An amendment in the nature of a substitute (in this instance, offered for several paragraphs of an appropriation bill) is subject to amendment by a substitute therefor (115 CONG. REC. 21218, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111]), and the substitute is in order even after perfecting amendments have been adopted to the amendment in the nature of a substitute. See 115 CONG. REC. 23126-29, 91st Cong. 1st Sess., Aug. 11, 1969 [H.R. 12982].

§ 16.6 Where there was pending to a bill an amendment in the form of a new section, a substitute therefor, and an amendment to the substitute, the Chair indicated that the defeat of the amendment to the substitute and of the substitute would not preclude the offering of another germane substitute. 116 CONG. REC. 25811, 91st Cong. 2d Sess., July 27, 1970 [H.R. 17654].

§ 16.7 *Note:* A proposition offered as a substitute for an amendment and rejected may nevertheless be offered again, in identical form, as an amendment to the text. See 106 CONG. REC. 5655-58, 86th Cong. 2d Sess., Mar. 15, 1960 [H.R. 8601].

§ 16.8 A substitute for an amendment, to provide for the judicial appointment of voting referees and amended so as to provide for a presidential appointment, was agreed to, then rejected on a negative vote on the amendment as amended by the substitute. When offered as an amendment in its original form, it was held to be in order since there had been no vote on the proposition proposed by the substitute. 106 CONG. REC. 5482 et seq., 86th Cong. 2d Sess., Mar. 15, 1960.

§ 16.9 A substitute for a motion to strike out is not in order. 110 CONG. REC. 757, 88th Cong. 2d Sess., Jan. 21, 1964 [H.R. 4879]; 123 CONG. REC. 32524, 95th Cong. 1st Sess., Oct. 5, 1977 [H.R. 8410]. See also § 14, supra.

§ 16.10 In the Committee of the Whole, the proper time to offer a substitute for an amendment is after the amendment has been read and the Member offering it has been permitted to debate it under the five-minute rule. 112 CONG. REC. 18111-15, 89th Cong. 2d Sess., Aug. 3, 1966. The substitute is then in order until the Chair puts the question on the amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 14, 1979 [H.R. 4388].

§ 16.11 A substitute for an amendment is not subject to a division of the question. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980 [H.R. 7235]. Generally, see Ch. 30 § 23, infra.

§ 17. Amendments to Titles and Preambles

§ 17.1 Amendments to the title of a bill are not in order until after passage of the bill, and are then voted upon without debate [Rule XIX]. 121 CONG. REC. 38193, 38194, 94th Cong. 1st Sess. Dec. 2, 1975 [H.R. 10481]. Committee amendments to the title of a bill are automatically reported by the Clerk after passage of the bill, although an amendment to a committee amendment to the title may be offered from the floor. 123 CONG. REC. 30574, 95th Cong. 1st Sess., Sept. 23, 1977 [H.R. 5383]. See also 110 CONG. REC. 759, 88th Cong. 2d Sess., Jan. 21, 1964 [H.R. 4879], where several committee amendments, including one to the title of a bill, were offered en bloc, the Chairman of the Committee of the Whole reminded the proponent of the amendments that title amendments are properly considered in the House following passage.

§ 17.2 In the House, an amendment to the preamble of a simple resolution or concurrent resolution is considered after the adoption of

the resolution. 116 CONG. REC. 18656-58, 18668-71, 91st Cong. 2d Sess., June 8, 1970 [H. Res. 976]; 124 CONG. REC. 14391, 95th Cong. 2d Sess., May 18, 1978 [H. Con. Res. 624]. In the Committee of the Whole, amendments to the preamble of a resolution are considered following disposition of any amendments to the text following the resolving clause. 113 CONG. REC. 7679-83, 90th Cong. 1st Sess., Mar. 22, 1967 [H.J. Res. 428]. That is, the body of the resolution is first considered and then, after the amendment stage is passed, the preamble is considered and perfected. 108 CONG. REC. 22637, 87th Cong. 2d Sess., Oct. 5, 1962.

§ 17.3 A motion to strike all after the resolving clause of a concurrent resolution does not affect the preamble thereof; and a motion to strike out the preamble is properly offered in the House after the resolution has been agreed to. See 112 CONG. REC. 3473, 89th Cong. 2d Sess., Feb. 21, 1966; 119 CONG. REC. 39337, 93d Cong. 1st Sess., Dec. 4, 1973 [S. Con. Res. 11].

§ 17.4 Amendments to the preamble of a joint resolution are considered in the Committee of the Whole following disposition of any amendments to the text of the resolution. 113 CONG. REC. 7679-83, 90th Cong. 1st Sess., Mar. 22, 1967 [H.J. Res. 428]; 121 CONG. REC. 34282, 24283, 94th Cong. 1st Sess., Oct. 29, 1975 [H.J. Res. 92]. See 118 CONG. REC. 29126, 92d Cong. 2d Sess., Aug. 18, 1972 [H.J. Res. 1227] (where the preamble of a joint resolution was amended in the Committee of the Whole following the adoption of a committee amendment in the nature of a substitute for the body of the joint resolution). In the House, an amendment to the preamble of a joint resolution reported from Committee of the Whole is considered following engrossment and prior to the third reading of the resolution. 112 CONG. REC. 25684, 89th Cong. 2d Sess., Oct. 7, 1966; 121 CONG. REC. 34282, 34283, 94th Cong. 1st Sess., Oct. 29, 1975 [H.J. Res. 92]; 124 CONG. REC. 28505, 95th Cong. 2d Sess., Sept. 8, 1978 [S.J. Res. 4].

D. WITHDRAWAL OR MODIFICATION OF AMENDMENT

§ 18. Withdrawal

§ 18.1 In the Committee of the Whole an amendment may not be withdrawn except by unanimous consent. 111 CONG. REC. 25794, 89th Cong. 1st Sess., Oct. 1, 1965 [H.R. 6519]. See also 108 CONG. REC. 6913, 87th Cong. 2d Sess., Apr. 18, 1962 [H.R. 11289] (substitute amendment withdrawn by unanimous consent), and 116 CONG. REC. 26046, 91st Cong. 2d Sess., July 28, 1970 [H.R. 17654].

§ 18.2 Although unanimous consent to withdraw an amendment is required in Committee of the Whole, in the House an amendment, whether simple or in the nature of a substitute, may be withdrawn at any time before amendment or decision is had thereon, and the same right to withdraw an amendment exists in the House as in Committee of the Whole. *House Rules and Manual* § 777 (96th Cong.). Accordingly, an amendment to a joint resolution being considered in the House as in Committee of the Whole may be withdrawn before action is had thereon, and unanimous consent is not required. 119 CONG. REC. 21305 et seq., 93d Cong. 1st Sess., June 26, 1973.

§ 18.3 Where a Member has been recognized by the Chair to offer an amendment and the amendment has been reported by the Clerk, unanimous consent is required to withdraw the amendment in Committee of the Whole. 124 CONG. REC. 7333, 95th Cong. 2d Sess., Mar. 16, 1978 [H.R. 50]. Such consent is not required where the amendment is at the Clerk's desk but has not been offered by the

Member. 117 CONG. REC. 34337, 92d Cong. 1st Sess., Sept. 30, 1971 [H.R. 10351].

§ 18.4 A Senate bill was reported with an amendment by the House Committee on Public Works but, by unanimous consent, the amendment was withdrawn. 110 CONG. REC. 23698, 88th Cong. 2d Sess., Oct. 2, 1964 [S. 2968].

§ 18.5 Where a substitute amendment is withdrawn by unanimous consent, an amendment to the substitute is also withdrawn. 121 CONG. REC. 6798, 6799, 94th Cong. 1st Sess., Mar. 17, 1975.

§ 18.6 The withdrawal of a substitute by unanimous consent does not preclude its being reoffered at the same stage of the proceedings, and unanimous consent is not required to reoffer the substitute if otherwise in order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979 [H.R. 5860].

§ 19. Modification

§ 19.1 In Committee of the Whole, an amendment once offered may not be modified by its proponent or another Member except by unanimous consent. 118 CONG. REC. 2180-82, 92d Cong. 2d Sess., Feb. 2, 1972 [H.R. 7987]; 118 CONG. REC. 29582, 92d Cong. 2d Sess., Sept. 6, 1972 [H.R. 13514].

§ 19.2 The proponent of an amendment may amend his own amendment only by unanimous consent. 113 CONG. REC. 19416, 90th Cong. 1st Sess., July 19, 1967 [H.R. 421]; compare, 116 CONG. REC. 19753, 91st Cong. 2d Sess., June 15, 1970 [H.R. 15361], where a Member proposing an amendment later offered an amendment to that amendment—and, since no objection was raised, the Chair put the question on the latter amendment. In the event of objection to a unanimous-consent request to modify a pending amendment, any Member (other than the proponent of the amendment) may offer a proper amendment in writing thereto. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979 [H.R. 3342].

§ 19.3 Pending a decision by the Chairman on a point of order raised against an amendment in the Committee of the Whole, the Member proposing the amendment secured unanimous consent that it be modified to delete certain language. 109 CONG. REC. 19258-60, 88th Cong. 1st Sess., Oct. 10, 1963 [H.R. 8747].

§ 19.4 Where a Member has, by unanimous consent, been permitted to offer several amendments en bloc, and he then desires to modify one of the amendments, the Clerk may rereport that portion of the amendment the Member seeks to modify. 118 CONG. REC. 29582, 92d Cong. 2d Sess., Sept. 6, 1972 [H.R. 13514].

§ 19.5 Where there is pending an amendment and a substitute therefor, the Member who offered the original amendment may also offer an amendment to the substitute, as he is not thereby attempting to amend his own amendment. 120 CONG. REC. 16112, 16149, 16151, 93d Cong. 2d Sess., May 22, 1974 [H.R. 14592].

§ 19.6 The Chairman of the Committee of the Whole may insist that a modification proposed by unamimous consent to a pending amendment be submitted in writing. 124 CONG. REC. 11637, 95th Cong. 2d Sess., Apr. 26, 1978 [H.R. 8494]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979 [H.R. 5860]. Similarly, although the proponent of an amendment may by unanimous consent modify his amendment while pending the modification must be reduced to writing to be read by the Clerk on demand of a Member. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 18, 1979 [H.R. 3000].

§ 19.7 The modification of a pending amendment by its proponent should be offered before the amendment is voted on. 124 CONG.

REC. 20480, 95th Cong. 2d Sess., July 12, 1978 [H.R. 12536].

§ 19.8 Where a special order provides for the automatic consideration in Committee of the Whole of an amendment printed in the Record by a designated Member, that Member may offer an amendment to the designated amendment without obtaining unanimous consent since he did not actually offer the designated amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 24, 1979 [H.R. 2218].

E. CONSIDERATION AND VOTING

§ 20. In General; Reading of Amendment

§ 20.1 In the House, amendments to a bill must be read in full unless the reading is dispensed with by unanimous consent (122 CONG. REC. 2872, 94th Cong. 2d Sess., Feb. 9, 1976 [H.R. 5808]) or waived pursuant to the provisions of a special rule. 124 CONG. REC. 34087, 95th Cong. 2d Sess., Oct. 6, 1978 [H. Res. 1390]. Until an amendment has been read or its reading properly dispensed with, amendments thereto may not be offered. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930]. Committee amendments to a bill must be read in full or their reading dispensed with by unanimous consent, although the bill itself is considered as having been read for amendment pursuant to a special rule. 122 CONG. REC. 2872, 94th Cong. 2d Sess., Feb. 9, 1976 [H.R. 5808]. In the 97th Congress, Rule XXIII clause 5 was amended to permit the reading of an amendment in the Committee of the Whole to be dispensed with by motion, if the amendment has been printed in the bill as reported, or if printed in the Record and submitted to the committee or committees reporting the bill. H. Res. 5, Jan. 5, 1981.

§ 20.2 Amendments at the Clerk's desk must be offered by a Member before they will be read by the Clerk. 119 CONG. REC. 41731, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450]. They need not be reoffered after they have been reported by the Clerk notwithstanding suspension of consideration of the bill. Where the Committee of the Whole resumes its consideration of a bill after an interval of time, the Chair sometimes (without objection) directs the Clerk to rereport the amendments which were pending at the time the Committee rose. 116 CONG. REC. 14418, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123].

§ 20.3 An amendment which has been once read may not be read again except by unanimous consent. 111 CONG. REC. 6097, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362]; 113 CONG. REC. 5036-38, 90th Cong. 1st Sess., Mar. 1, 1967 [H. Res. 278]. However, where uncertainty exists as to the exact text of a pending amendment, the Chairman, by unanimous consent, may request the Clerk to rereport the amendment. 116 CONG. REC. 25809, 91st Cong. 2d Sess., July 27, 1970 [H.R. 17654].

§ 20.4 The reading of an amendment must be completed before an amendment thereto is in order. 108 CONG. REC. 759, 87th Cong. 2d Sess., Jan. 23, 1962 [H.R. 7927] (amendment in the nature of a substitute); 110 CONG. REC. 3217, 88th Cong. 2d Sess., Feb. 20, 1964 [H.R. 9637] (committee amendment).

§ 20.5 An amendment to a committee amendment may not be offered for consideration if the committee amendment is not yet pending. 124 CONG. REC. 9097, 95th Cong. 2d Sess., Apr. 6, 1978 [H.R. 10899]. And where there are several committee amendments to a section, the first of which is pending, only an amendment to the pending committee amendment is in order. 110 CONG. REC. 3217, 88th Cong. 2d Sess., Feb. 20, 1964 [H.R. 9637].

§ 20.6 An amendment in the nature of a substitute is not read by sections in the absence of a special rule which specifies to the contrary, and is open to amendment at any point when read in its entirety. 111 CONG. REC. 25418, 89th Cong. 1st Sess. Sept. 29, 1965 [H.R. 4644]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979 [H.R. 5860]. If the special rule making in order an amendment in the nature of a substitute does not provide for its reading by sections as an original bill, and if the entire amendment as printed in the Record is considered as read, it is automatically open to amendment at any point. 122 CONG. REC. 2008, 94th Cong. 2d Sess., Feb. 3, 1976 [H.R. 9464].

§ 20.7 Where, pursuant to a special rule, an amendment in the nature of a substitute is being read as an original bill for the purpose of amendment, the amendment is read section by section, and substantive as well as pro forma amendments are in order following the reading of each section. 110 CONG. REC. 3641, 88th Cong. 2d Sess., Feb. 26, 1964 [H.R. 9022].

§ 20.8 When an amendment in the nature of a substitute is, by unanimous consent, considered as read and open to amendment, the entire amendment is then subject to substantive or pro forma amendment. 110 CONG. REC. 3641, 88th Cong. 2d Sess., Feb. 26, 1964 [H.R. 9022].

§ 20.9 Portions of an amendment having been agreed to on separate votes, the question recurred on the remainder of the amendment. 118 CONG. REC. 28906, 92d Cong. 2d Sess., Aug. 17, 1972 [H.R. 13915]. *Note:* Rejection of a portion of an amendment on a division of the question should be distinguished from the situation where an amendment to an amendment, striking out a portion thereof, is agreed to. In the latter event, the question would recur on the original amendment, as amended, but where a portion of an amendment is rejected on a separate vote, the question merely recurs on the remainder of the amendment.

§ 20.10 An amendment may be reread in Committee of the Whole for the information of Members by unanimous consent (and not by motion); but an objection to such request comes too late after the Clerk has begun to reread the amendment. 120 CONG. REC. 21694, 93d Cong. 2d Sess., June 27, 1974 [H.R. 15580]. And if a Member has received consent to a rereading of his amendment and he has been recognized to debate it, a point of order thereafter against the amendment comes too late. 121 CONG. REC. 20945, 20946, 94th Cong. 1st Sess., June 26, 1975 [H.R. 8121]. In the rereading of amendments, the Clerk restates the text verbatim; it is not within his province to analyze the effect of amendments, and the Chair has declined to ask unanimous consent that the Clerk read the "differences" between two pending amendments. 123 CONG. REC. 10773, 95th Cong. 1st Sess., Apr. 6, 1977 [H.R. 5262]. Compare § 20.3, supra.

§ 20.11 Notwithstanding the "acceptance" by a bill's floor managers of an offered amendment, the Chairman must put the question on the amendment for it to be adopted. 120 CONG. REC. 17875, 17876, 93d Cong. 2d Sess., June 5, 1974 [H.R. 14747, to amend the Sugar Act of 1948].

§ 20.12 Pursuant to a special rule making in order the text of another bill as original text for amendment if offered as an amendment in the nature of a substitute, the amendment must be offered from the floor after the first section of the original bill is read. 124 CONG. REC. 22884, 95th Cong. 2d Sess., July 26, 1978 [H.R. 3350]. Likewise, where a special rule provides that an amendment in the nature of a substitute be considered as an original bill for amendment if offered, the first section of the original measure is first read and the amendment, if then offered from the floor, must be read by sections for amendment absent unanimous consent to consider it as read and open to amendment at any point. 124 CONG. REC. 21486, 95th Cong. 2d Sess., July 18, 1978

[H.R. 1609]. On the other hand, where the special rule provides that it shall be in order to consider a designated amendment in the nature of a substitute as an original bill for amendment, but does not require that the amendment be offered, the Chair directs the Clerk to read the amendment for consideration as original text for the purpose of amendment and no motion from the floor is required. 124 CONG. REC. 20992, 95th Cong. 2d Sess., July 14, 1978 [H.R. 12163].

§ 21. Order of Consideration

§ 21.1 *Note:* The four forms of amendment permitted by Rule XIX may be pending simultaneously. They must, however be voted on in a definite sequence, as follows: (1) amendments to the amendment, if any, are disposed of first, seriatim, until the amendment is perfected; (2) amendments to the substitute are next voted on, seriatim, until the substitute is perfected; (3) the substitute is next voted on; (4) the amendment is voted on last, so that if the substitute has been agreed to, the vote is on the amendment as amended by the substitute. See 108 CONG. REC. 13415, 87th Cong. 2d Sess., July 12, 1962 [H.R. 11921].

§ 21.2 Where there was pending in Committee of the Whole an amendment, an amendment thereto, a substitute therefor and an amendment to the substitute, the Chairman indicated that the vote would first be taken on the amendment to the original amendment, then on the amendment to the substitute, then on the substitute, and finally on the original amendment (as amended). 116 CONG. REC. 14424, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123]. To the same effect, see 124 CONG. REC. 14393, 95th Cong. 2d Sess., May 18, 1978; 124 CONG. REC. 23725, 95th Cong. 2d Sess., Aug. 1, 1978 [H.R. 12514]. Perfecting amendments to an amendment are voted on, seriatim, before the question is put on a pending perfecting amendment to a substitute for the amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 15, 1979 [H.R. 39]. Disposition of the perfecting amendment to the substitute does not preclude the offering of further amendments to the amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 15, 1979 [H.R. 39]. But when the substitute is adopted, the vote recurs immediately upon the original amendment as amended by the substitute, and further perfecting amendments are not in order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 1, 1979 [H. Con. Res. 107].

§ 21.3 Where there is pending an amendment and a substitute therefor, amendments to the substitute may be offered prior to the vote on the substitute, but the vote recurs immediately upon the amendment as amended, upon adoption of the substitute. 120 CONG. REC. 24453, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500]. Thus, where a substitute for an amendment in the nature of a substitute has been agreed to, the question recurs immediately upon the amendment as amended by the substitute. 122 CONG. REC. 2649, 94th Cong. 2d Sess., Feb. 5, 1976 [H.R. 9464]. And where there is pending an amendment, a substitute therefor, and an amendment to the substitute, the vote is first taken on the amendment to the substitute, then on the substitute as amended, and finally on the amendment as amended by the substitute. 120 CONG. REC. 17872, 93d Cong. 2d Sess., June 5, 1974 [H.R. 14747]. The defeat of the amendment as amended by the substitute results in the rejection of the language included in the substitute as amended. See 119 CONG. REC. 21320, 93d Cong. 1st Sess., June 26, 1973 [H.J. Res. 636].

§ 21.4 Where there is pending an amendment, an amendment thereto and a substitute therefor, the vote is first taken on the amendment to the amendment and then on the substitute. 117 CONG. REC. 20553, 92d Cong. 1st Sess., June 17, 1971 [H.R. 8687]; 119 CONG. REC. 31463, 93d Cong. 1st Sess., Sept. 26, 1973 [H.R. 981].

If the substitute is rejected another substitute may be offered. 123 CONG. REC. 34259, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 9375].

§ 21.5 Where the four amendments permitted under Rule XIX are pending, the amendment is perfected before the substitute. 108 CONG. REC. 13415, 87th Cong. 2d Sess., July 12, 1962 [H.R. 11921]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 31, 1979 [H.R. 4985].

§ 21.6 Amendments to a bill reported by a standing committee are taken up in Committee of the Whole in proper sequence and not as shown in the reported bill when, through error, the standing committee submitted them for printing in improper order. 112 CONG. REC. 8428, 89th Cong. 2d Sess., Apr. 19, 1966.

§ 21.7 Where there was pending an amendment in the nature of a substitute, a substitute therefor and an amendment to the substitute, and debate had been limited on the substitute and all amendments thereto but not on the original amendment or amendments thereto, the Chair indicated that (1) further amendments to the substitute or modifications of the substitute by unanimous consent must await disposition of the pending amendments to the substitute; (2) amendments to the original amendment could be offered and debated under the five-minute rule and would be voted on before amendments to the substitute; (3) amendments to the substitute could be offered and voted upon without debate (unless printed in the *Congressional Record* pursuant to Rule XXIII clause 6); and (4) the question would not be put on the substitute until all perfecting amendments to it and to the original amendment were disposed of. 122 CONG. REC. 2646–48, 94th Cong. 2d Sess., Feb. 5, 1976 [H.R. 9464].

§ 21.8 By unanimous consent, the Committee of the Whole delayed consideration for amendment of the table of contents at the beginning of a bill until the bill had been considered for amendment in its entirety. 123 CONG. REC. 26124, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 8444].

§ 22. Perfecting Amendments; Motions to Strike

§ 22.1 All perfecting amendments to a section of a bill must be disposed of prior to the vote recurring on a pending motion to strike out the section. 112 CONG. REC. 18111-15, 89th Cong. 2d Sess., Aug. 3, 1966 [H.R. 14765]; 113 CONG. REC. 29569-71, 90th Cong. 1st Sess., Oct. 20, 1967; 119 CONG. REC. 26120, 26122, 93d Cong. 1st Sess., July 26, 1973 [H.R. 9360].

§ 22.2 A perfecting amendment to the text of a bill is in order pending a vote on a motion to strike out the same text and is first voted on. 115 CONG. REC. 28454, 91st Cong. 1st Sess., Oct. 3, 1969 [H.R. 14000]; 119 CONG. REC. 13233, 13235, 93d Cong. 1st Sess., Apr. 19, 1973 [S. 502]; see also 116 CONG. REC. 8188, 8190, 91st Cong. 2d Sess., Mar. 19, 1970. If the perfecting amendment as adopted changes all the text proposed to be stricken, the motion to strike necessarily falls and is not voted on. 124 CONG. REC. 18286, 95th Cong. 2d Sess., June 21, 1978 [H.R. 12932].

§ 22.3 Where there is pending a motion to strike an entire title of a bill, it is in order to offer, as a perfecting amendment to that title, a motion to strike out a lesser portion of the title, and that perfecting amendment is voted on first. 121 CONG. REC. 18437, 94th Cong. 1st Sess., June 11, 1975 [H.R. 6860].

§ 22.4 A motion proposing to strike out a section is not properly offered as an amendment to a perfecting amendment to that section, but where no point of order is raised, the Chairman nevertheless follows the general principle that the pending text should first be perfected before the vote recurs on striking it out. 121 CONG. REC. 7662, 7663, 94th Cong. 1st Sess., Mar. 20, 1975 [H.R. 4296]; 122 CONG. REC.

23460, 94th Cong. 2d Sess., July 22, 1976 [H.R. 13777].

§ 22.5 Where a motion to strike out language in a bill is pending, and there is offered a perfecting amendment to a portion of the language sought to be stricken, an amendment in the second degree to such amendment, a substitute therefor, and an amendment to the substitute, the vote is taken first on the amendment to the amendment, then on the amendment to the substitute, then on the substitute, and then on the amendment; the vote then recurs on the original motion to strike, which if adopted deletes any perfections adopted to the original language. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 18, 1979 [H.R. 4473]. Similarly, there may be pending a motion to strike out a pending title of a bill, a perfecting amendment (adding a new section at the end of the title), and a substitute for the perfecting amendment. The vote is taken first on the substitute, then on the perfecting amendment, finally on the motion to strike. After the first perfecting amendment has been disposed of, another may be offered and the vote on the motion to strike out is again deferred until the amendment is disposed of. 115 CONG. REC. 28454, 28459, 28463, 91st Cong. 1st Sess., Oct. 3, 1969.

§ 23. Amendments in the Nature of a Substitute

§ 23.1 *Note:* While an amendment in the nature of a substitute is in every instance a "motion to strike out and insert," the term "amendment in the nature of a substitute" applies only to those motions which propose to strike out an entire pending text and to insert new matter and is not used to describe those motions to strike out and insert which may be properly characterized as "perfecting amendments" and which go only to a portion of the pending text.

§ 23.2 An amendment in the nature of a substitute for a bill having been proposed, perfecting amendments to the original text which has been read are voted on before the question is taken on the amendment in the nature of a substitute. 107 CONG. REC. 8825-27, 87th Cong. 1st Sess., May 24, 1961.

§ 23.3 Amendments to a committee amendment are voted on before a substitute amendment, and the effect of the adoption of the substitute amendment [striking out all after the title of the committee amendment] is to eliminate the language inserted by the committee amendment. 106 CONG. REC. 11282, 11292, 11296–98, 11301, 86th Cong. 2d Sess., May 26, 1960 [H.R. 10128].

§ 23.4 Where an amendment in the nature of a substitute for a bill is amended by the adoption of a substitute therefor, the question recurs on the amendment in the nature of a substitute, as amended (116 CONG. REC. 42032, 91st Cong. 2d Sess., Dec. 16, 1970 [H.R. 18582]), and no further amendments to either proposition are in order. 116 CONG. REC. 20206, 91st Cong. 2d Sess., June 17, 1970 [H.R. 17070].

§ 23.5 When an amendment in the nature of a substitute is reported to the House from the Committee of the Whole, the previous question having been ordered on the bill and amendments to final passage, the question is first on agreeing to that amendment. And if it is defeated, the question would recur on engrossment and third reading of the original bill, and further amendment thereof is not in order. 105 CONG. REC. 15859, 15867, 86th Cong. 1st Sess., Aug. 13, 1959 [H.R. 8342].

§ 23.6 The Committee of the Whole had adopted, in the following order, (1) an amendment to § 4 of a motion to strike and insert (a committee amendment), (2) then an amendment to § 6, (3) an amendment, in effect a substitute, striking out all after § 1 of the committee amendment [thus deleting all after the

title], and finally (4) had agreed to the committee amendment, as amended; these amendments were then voted on in the House, under a special rule permitting separate votes on any amendments adopted in the Committee of the Whole to either the bill or the committee amendment, in the order in which they were adopted. 106 CONG. REC. 11282, 11292, 11296-98, 11301, 86th Cong. 2d Sess., May 26, 1960 [H.R. 10128].

§ 24. Committee Amendments

§ 24.1 While committee amendments to a pending section are normally considered prior to amendments offered from the floor, a floor amendment to the text of a pending section is considered before a committee amendment adding a new section at the end of the pending section. 118 CONG. REC. 33779, 92d Cong. 2d Sess., Oct. 4, 1972 [S. 1316]; see also 110 CONG. REC. 3215, 88th Cong. 2d Sess., Feb. 20, 1964 [H.R. 9637], where an amendment offered from the floor was considered before a committee amendment reported in the bill.

§ 24.2 Where a bill was open to amendment at any point and there was pending a perfecting committee amendment, the Chairman indicated that further amendments to the bill would be in order following disposition of the committee amendment. 119 CONG. REC. 17338, 93d Cong. 1st Sess., May 30, 1973 [H.R. 5858].

§ 24.3 The Chairman has indicated that the Committee of the Whole must vote on a pending amendment even though it had been "accepted" by members of the committee reporting the bill. 117 CONG. REC. 17890, 92d Cong. 1st Sess., June 3, 1971 [H.R. 1709].

§ 24.4 Where a section of a bill being read by titles had been stricken out on a point of order, the Chairman indicated, in response to a parliamentary inquiry, that a committee amendment printed in the bill inserting a new section in that title should be disposed of prior to the consideration of floor amendments to that title. 120 CONG. REC. 9846, 93d Cong. 2d Sess., Apr. 4, 1974 [H.R. 12565].

§ 25. Considering Amendments En Bloc

§ 25.1 Amendments may be considered en bloc only by unanimous consent (124 CONG. REC. 24227, 95th Cong. 2d Sess., Aug. 3, 1978 [H.R. 12931]) or where specified by special rule. Amendments considered en bloc by unanimous consent are subject to germane amendment after they have been read. 124 CONG. REC. 6286, 95th Cong. 2d Sess., Mar. 9, 1978 [H.R. 50]. Such amendments are voted upon en bloc (114 CONG. REC. 22082, 90th Cong. 2d Sess., July 18, 1969 [H.R. 15263]) but such consideration by unanimous consent does not prevent a division of the question from being demanded so as to obtain a separate vote on one of the amendments. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 14, 1979 [H.R. 5980]. *Note:* The request for division may be demanded before the question is put thereon. 124 CONG. REC. 18184, 95th Cong. 2d Sess., June 19, 1978 [H.R. 12936]. And where opposition develops to one of the amendments during their consideration en bloc, the Chairman may put the question separately on the amendment. 119 CONG. REC. 24682, 93d Cong. 1st Sess., July 18, 1973 [H.J. Res. 542].

§ 25.2 *Note:* Where unanimous consent is requested that two or more amendments be considered en bloc, points of order against any or all of them may be made or reserved pending agreement to the request. See 116 CONG. REC. 4028, 91st Cong. 2d Sess., Feb. 19, 1970 [H.R. 15931]. Amendments offered en bloc by unanimous consent are considered as one amendment, and a point of order against any portion thereof renders the entire amendment subject to a point of order. 118 CONG. REC. 13641,

92d Cong. 2d Sess., Apr. 20, 1972 [H.R. 14070]. Since an amendment against which a point of order will be sustained should not be considered en bloc with other amendments, the Chairman may request a Member seeking unanimous consent to consider amendments en bloc to withdraw his request when the manager of the bill indicates his intention to raise a point of order against one of those amendments. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 27, 1979 [H.R. 4389].

§ 25.3 A single amendment may make several related changes in a section of a bill, and each change in the section need not be considered as a separate amendment. 115 CONG. REC. 22545, 91st Cong. 1st Sess., Aug. 6, 1969 [H. Res. 502].

§ 25.4 Where a Member has amendments to each of several committee amendments, he must offer such amendments singly, as each committee amendment is reported; and it is not in order to consider "en bloc" amendments to committee amendments which have not been reported. 110 CONG. REC. 3217, 88th Cong. 2d Sess., Feb. 20, 1964 [H.R. 9637].

§ 25.5 By unanimous consent, obtained prior to the adoption of a committee amendment, a Member was permitted to offer, en bloc, several amendments which were, in part, amendatory of the committee amendment. 105 CONG. REC. 16244, 86th Cong. 1st Sess., Aug. 18, 1959 [H.R. 7985].

§ 25.6 To expedite consideration of perfecting amendments to a bill, the House may adopt a special rule permitting their consideration en bloc in lieu of separate consideration in the order printed in the bill. 122 CONG. REC. 17064, 94th Cong. 2d Sess., June 9, 1976 [H. Res. 1269]. Under such a special rule, the manager of the bill may request en bloc consideration after the pending text is read and unanimous consent is not required. 121 CONG. REC. 18434, 18435, 94th Cong. 1st Sess., June 11, 1975 [H.R. 6860]. See also 123 CONG. REC. 26172, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 8444].

§ 26. Debating Amendments

§ 26.1 A motion to close debate on an amendment is not in order until there has been debate on the amendment. 111 CONG. REC. 16233, 89th Cong. 1st Sess., July 9, 1965 [during debate on H.R. 6400].

§ 26.2 A motion to limit debate on an amendment is not in order if it includes a reservation of time for the committee. 115 CONG. REC. 38844, 91st Cong. 1st Sess., Dec. 12, 1969 [H.R. 12321].

§ 26.3 A motion to limit debate on an amendment, while privileged, cannot be made while another Member has the floor. 110 CONG. REC. 5118, 88th Cong. 2d Sess., Mar. 12, 1964.

§ 26.4 A motion to close all debate on a pending amendment and amendments thereto has been interpreted to include amendments not yet offered or at the desk. 105 CONG. REC. 15850, 86th Cong. 1st Sess., Aug. 13, 1959.

§ 26.5 When the Committee of the Whole limits debate on a substitute and all amendments thereto, such limitation does not apply to amendments which may be offered to the original amendment. 111 CONG. REC. 25426, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644].

§ 26.6 Where all time for debate on an amendment and all amendments thereto is limited and, by unanimous consent, placed in control of the proponent of the amendment and the chairman of the committee [in opposition], the Chair first recognizes the proponent of the amendment. 111 CONG. REC. 16207, 16217, 89th Cong. 1st Sess., July 9, 1965 [during consideration of H.R. 6400].

§ 26.7 Where there is pending an amendment to a bill, an amendment thereto, a substitute

therefor and an amendment to the substitute, and debate on those amendments has been limited to a time certain but has not yet been consumed, the Chair may, at his discretion, put the question on the amendment to the original amendment after ascertaining that no Member previously listed to speak desires to debate that amendment. 116 CONG. REC. 25813, 91st Cong. 2d Sess., July 27, 1970 [H.R. 17654].

§ 26.8 Where there was pending a committee amendment, an amendment thereto, a substitute therefor and an amendment to the substitute, time for debate on the pending amendments having expired, votes were taken on the amendment to the committee amendment and then on the amendment to the substitute, after which further amendments were offered and voted upon without debate. 116 CONG. REC. 27471, 91st Cong. 2d Sess., Aug. 5, 1970 [H.R. 18546].

§ 26.9 Although the motion to strike out and insert is in order while a motion to strike out is pending, when a Member's motion to strike out has been reported he is entitled to speak thereto before another Member is recognized to offer a motion to strike out and insert. 111 CONG. REC. 25696, 25699, 89th Cong. 1st Sess., Sept. 30, 1965 [H.R. 10281].

§ 26.10 During consideration of a resolution under a special procedure permitting amendments to one section of the resolution but prohibiting amendments to those amendments, the Chairman indicated that an amendment to or a substitute for an amendment to that section would not be in order, and that only 10 minutes of debate (five in favor and five against) were in order on any amendment offered to the section. 120 CONG. REC. 10196, 10197, 93d Cong. 2d Sess., Apr. 9, 1974 [H. Res. 998, amending the rules of the House].

§ 26.11 Debate on a pro forma amendment must be confined to the portion of the bill to which the pro forma amendment has been offered. 120 CONG. REC. 20595, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472].

§ 26.12 Where there was pending an amendment proposing to strike out an entire section of text and insert new language, and a substitute for that amendment, the Chairman indicated in response to a parliamentary inquiry that termination of debate on the pending amendment and all amendments thereto at a time certain (40 minutes past 4 o'clock) would preclude further debate on amendments offered to the amendment or substitute but not printed in proper form in the *Congressional Record* pursuant to Rule XXIII clause 6. 120 CONG. REC. 24459, 24460, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500].

§ 26.13 Where there is pending an amendment in the nature of a substitute, a substitute therefor, an amendment to the original amendment and an amendment to the substitute, a Member may be recognized to debate the amendment to the substitute either prior or subsequent to the first vote on the amendment to the amendment in the nature of a substitute. 120 CONG. REC. 33338, 93d Cong. 2d Sess., Oct. 1, 1974 [H. Res. 988].

§ 26.14 Where a special rule permitted the offering of an amendment which would then be subject to both pro forma amendments for debate and to other designated substantive amendments, the Chair indicated that pro forma debate on the broader subject of the original amendment could be had although one of the substantive amendments thereto might be pending. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 17, 1979 [S. 832].

F. Effect of Consideration or Adoption; Changes After Adoption

§ 27. In General; Effect of Adoption of Perfecting Amendment

§ 27.1 It is fundamental that it is not in order to amend an amendment previously agreed to. 107 Cong. Rec. 11093, 11100, 87th Cong. 1st Sess., June 22, 1961 [H.R. 6028]; 112 Cong. Rec. 18411, 89th Cong. 2d Sess., Aug. 5, 1966 [H.R. 14765]; 123 Cong. Rec. 30545, 95th Cong. 1st Sess., Sept. 23, 1977 [H.R. 3]. Thus, the text of a bill perfected by amendment cannot thereafter be amended. 110 Cong. Rec. 2489, 88th Cong. 2d Sess., Feb. 7, 1964 [H.R. 7152]. And where a portion of a title of a bill has been altered by amendment, further amendments to that portion are not in order. 121 Cong. Rec. 32589, 94th Cong. 1st Sess., Oct. 9, 1975 [H.R. 200]. An amendment in the second degree is in order only when the amendment in the first degree, to which it is directed, is pending; for when an amendment has been agreed to, it is not subject to further modification or change. 115 Cong. Rec. 16275, 91st Cong. 1st Sess., June 18, 1969 [H.R. 6543]. It follows that when a perfecting amendment is agreed to, further amendment of that amendment is not in order. 108 Cong. Rec. 6913, 87th Cong. 2d Sess., Apr. 18, 1962 [H.R. 11289]. Likewise, the adoption of an amendment to a substitute precludes further amendment to those portions of the substitute so amended. 122 Cong. Rec. 17351, 17352, 94th Cong. 2d Sess., June 10, 1976 [H.R. 13367]. As to the rule against inclusion in a motion to recommit of instructions modifying an amendment previously agreed to, see Ch. 23 § 15, supra.

§ 27.2 The adoption of a perfecting amendment to a committee amendment does not preclude the offering of a substitute for the committee amendment, as perfected. 125 Cong. Rec. p. ....., 96th Cong. 1st Sess., Sept. 13, 1979 [H.R. 4040]. But if the committee amendment is agreed to it is not then subject to further amendment. 118 Cong. Rec. 19458, 92d Cong. 2d Sess., June 1, 1972 [H.R. 13918].

§ 27.3 While it is not in order to amend an amendment already agreed to, the adoption of a perfecting amendment to a section does not preclude the offering of further perfecting amendments to other portions of the section or amendments broader in scope encompassing other portions of the section as well as the perfected portion. 119 Cong. Rec. 41261, 93d Cong. 1st Sess., Dec. 13, 1973 [H.R. 11450]. And where there is pending an amendment in the nature of a substitute and a perfecting amendment thereto, the adoption of the perfecting amendment will not preclude the offering of another perfecting amendment striking out language inserted by the adopted amendment plus additional language in the text and inserting new matter. 120 Cong. Rec. 30648, 30649, 93d Cong. 2d Sess., Sept. 11, 1974 [H.R. 13565]. Similarly, the adoption of a perfecting amendment to a substitute for an amendment does not preclude the consideration of further perfecting amendments to the substitute which do not merely change text already perfected. 126 Cong. Rec. p. ....., 96th Cong. 2d Sess., July 21, 1980 [H. Res. 743].

§ 27.4 While the Committee of the Whole may not amend a section of a bill already passed during the reading, it may adopt an amendment to a later section which has the effect of negating the provisions of the earlier section. 113 Cong. Rec. 31893, 90th Cong. 1st Sess., Nov. 9, 1967; 113 Cong. Rec. 32253, 90th Cong. 1st Sess., Nov. 13, 1967 [S. 2388]. And while the Committee may not strike out or change an amendment previously agreed to, it may consider a subsequent amendment which contradicts a proposition previously agreed to (113 Cong. Rec. 23699, 90th Cong.

1st Sess., Aug. 23, 1967; 113 CONG. REC. 23934, 23938, 90th Cong. 1st Sess., Aug. 24, 1967 [H.R. 12048]) or it may insert language immediately following the adopted amendment which is inconsistent therewith, and the Chair will not rule out the amendment on the basis of the alleged inconsistency. 119 CONG. REC. 41755, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450]; 122 CONG. REC. 17381, 94th Cong. 2d Sess., June 10, 1967 [H.R. 13367]. It follows that an amendment in the form of a new section or subsection to the bill and germane thereto may be offered notwithstanding its possible inconsistency with an amendment previously adopted. 121 CONG. REC. 26224, 26225, 94th Cong. 1st Sess., July 31, 1975 [H.R. 7014]; 123 CONG. REC. 29440, 95th Cong. 1st Sess., Sept. 15, 1977 [H.R. 3744].

§ 27.5 It is not in order to further amend a section which has been amended in its entirety, although the title containing that section is open to amendment at any point pursuant to a special rule providing for reading for amendment by titles. 120 CONG. REC. 24108 et seq., 93d Cong. 2d Sess., July 18, 1974 [H.R. 11500].

§ 27.6 Adoption of an amendment, as amended, which changes an entire section, precludes further amendments to that section. 120 CONG. REC. 24459, 24460, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500].

§ 27.7 Where there was pending an amendment proposing to strike out an entire section of text and insert new language, and a substitute for that amendment, the Chairman indicated in response to a series of parliamentary inquiries that rejection of the amendment as amended would permit further amendments to the pending section and debate thereon; and adoption of an amendment changing the entire section would preclude further amendment to that section—and amendments printed in the *Congressional Record* could not be offered to that section. 120 CONG. REC. 24459, 24460, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500].

§ 27.8 An amendment striking out an entire section and inserting new text is in order if it makes germane changes in the section, and it may displace perfecting amendments which have been adopted to portions of that section which are less comprehensive in scope. 120 CONG. REC. 24594, 24596, 93d Cong. 2d Sess., July 23, 1974 [H.R. 11500].

§ 27.9 The adoption of a perfecting amendment only precludes further amendments changing the perfected text; amendments are in order which add language to an unamended portion (at the end) of the original amendment as amended. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 39]. Although an amendment may not change an amendment already agreed to, it is in order to insert language immediately following the adopted amendment. 120 CONG. REC. 33364, 93d Cong. 2d Sess., Oct. 1, 1974 [H.R. 16900]; 122 CONG. REC. 16051, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169]. Similarly, if a perfecting amendment (not offered as a substitute) to an amendment in the nature of a substitute, striking out all after the short title and inserting a new text, is adopted, further amendments to the perfected text are not in order, but amendments are in order to add new language at the end of the amendment in the nature of a substitute as amended. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 39]. Likewise, the adoption of an amendment inserting a new subsection in a bill does not preclude consideration of another amendment inserting another new subsection immediately thereafter which does not change the amendment already agreed to, and conforming changes to reflect the insertion of both amendments can be made either by amendment or by correction of the engrossment by the Clerk after final passage by unanimous consent. 122 CONG. REC. 25776, 94th Cong. 2d Sess., Aug. 5, 1976 [H.R. 9719].

§ 27.10 Although an amendment may not be offered to change only that portion of the pending text which has been altered by amendment, a further amendment changing a different or more comprehensive portion of the pending text is in order. 124 CONG. REC. 11984, 95th Cong. 2d Sess., May 1, 1978 [H.R. 9400]. Thus, while it is not in order to further amend an amendment previously agreed to, an amendment encompassing a more comprehensive portion of the bill, including original text not yet amended, is in order. 121 CONG. REC. 11543, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 2, 1979 [H. Con. Res. 107]. Similarly, although an amendment may not merely change language in the pending bill which has been changed by amendment, it is in order to offer an amendment which strikes out language changed by amendment as well as other matter and inserts language which proposes substantive changes going beyond the original amendment (125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 31, 1979 [S. 1030]), or strikes out matter not only in the amendment previously agreed to but also in additional portions of the pending bill. 121 CONG. REC. 26947, 94th Cong. 1st Sess., Aug. 1, 1975 [H.R. 7014]; 122 CONG. REC. 11599, 94th Cong. 2d Sess., Apr. 28, 1976 [H. Con. Res. 611]. Likewise, where there was pending a perfecting amendment to a concurrent resolution on the budget changing several figures therein, the Chair indicated that adoption of that amendment would preclude further amendment merely changing those amended figures but would not preclude more comprehensive amendments changing other portions of the resolution which had not been amended. 123 CONG. REC. 12485, 95th Cong. 1st Sess., Apr. 27, 1977 [H. Con. Res. 195]. On the other hand, while it is in order to offer an amendment in the nature of a substitute for a bill which has the effect of modifying several perfecting amendments to the bill which have been agreed to, it is not in order to offer perfecting amendments which only change portions of the bill which have already been perfected by amendment. 123 CONG. REC. 22511, 95th Cong. 1st Sess., July 12, 1977 [H.R. 5023].

§ 27.11 While it is not in order to reinsert precise language stricken by amendment, an amendment similar but not identical to the stricken language may be offered if germane to the pending portion of the bill, and the Chairman will not rule on the propriety of such an amendment prior to its being offered. 121 CONG. REC. 24386, 94th Cong. 1st Sess., July 23, 1975 [H.R. 7014]. While it is not in order to offer an amendment, to a pending amendment, to insert language identical to language which has been stricken from the amendment, a change in substance in the words sought to be inserted, such as changing the word "shall" to "may," allows the amendment to be offered. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979 [H.R. 3342].

§ 27.12 An amendment to strike out the pending title of a bill and reinsert all sections of that title except one is not in order where that section which would be omitted has previously been amended in its entirety. 121 CONG. REC. 26946, 26947, 94th Cong. 1st Sess., Aug. 1, 1975 [H.R. 7014].

§ 27.13 Where there is pending a motion to strike out a title of a bill, and a perfecting amendment (changing the entire title) is then offered and agreed to, the motion to strike the title falls and is not voted upon, and further perfecting amendments to the title are no longer in order. 121 CONG. REC. 29835, 94th Cong. 1st Sess., Sept. 23, 1975 [H.R. 7014].

§ 27.14 In response to parliamentary inquiries the Chairman stated: a motion to strike a section of a bill, if adopted, strikes the entire section including a provision added as a perfecting amendment to that section; and a Member who has offered a motion to strike a section of a bill may not thereafter offer a perfecting amendment to that section while his motion to

strike is pending. 121 CONG. REC. 30772, 30773, 94th Cong. 1st Sess., Sept. 29, 1975 [H.R. 8630].

§ 27.15 Where a title of a bill was open for amendment at any point and an amendment was offered altering several provisions within that title including a provision previously altered by amendment, a point of order against the amendment was sustained and by unanimous consent the amendment was altered to delete reference to that portion already amended. 121 CONG. REC. 32590, 94th Cong. 1st Sess., Oct. 9, 1975 [H.R. 200, the Marine Fisheries Conservation Act of 1975].

§ 27.16 Where an amendment is adopted inserting a new title in a bill and renumbering the following (last) title accordingly, a subsequent committee amendment renumbering that renumbered title necessarily falls and is not read or voted upon, as it would change text already agreed to. 123 CONG. REC. 10788, 95th Cong. 1st Sess., Apr. 6, 1977 [H.R. 6562].

§ 27.17 To a proposition which is open to amendment at any point, an amendment in the nature of a substitute is in order notwithstanding adoption of perfecting amendments if another amendment in the nature of a substitute has not been adopted. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 2, 1979 [H. Con. Res. 107].

§ 28. Adoption of Amendment as Precluding Motions to Strike

§ 28.1 The adoption of a perfecting amendment to a portion of the text of a bill does not preclude a vote on a pending motion to strike out that text as amended. 118 CONG. REC. 34130, 92d Cong. 2d Sess., Oct. 5, 1972 [H.R. 16656]. But it is not in order to offer an amendment merely striking out an amendment previously agreed to. 121 CONG. REC. 26946, 26947, 94th Cong. 1st Sess., Aug. 1, 1975 [H.R. 7014]. And it is not in order to move to strike a section of a bill which, by amendment, has previously been inserted therein. 121 CONG. REC. 11550, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096]. Thus, the adoption of an amendment striking out certain words and inserting new text precludes the offering of a subsequent motion to strike out that text. 120 CONG. REC. 25240, 25241, 93d Cong. 2d Sess., July 25, 1974 [H.R. 11500].

§ 28.2 The adoption of a perfecting amendment to a section does not preclude an amendment proposing to strike out the entire section, nor does it preclude further perfecting amendments to other portions of the section or a motion to strike out the section and insert new text. 119 CONG. REC. 41165, 41166, 93d Cong. 1st Sess., Dec. 12, 1973 [H.R. 11450]. In one instance, after agreeing to several amendments to section 1 of a bill, the Committee of the Whole agreed to a motion to strike out and insert a new section which included some of the amendments agreed to, but omitted one of them. 110 CONG. REC. 21424, 21587, 21591, 88th Cong. 2d Sess., Sept. 2, 3, 1964 [H.R. 12298].

§ 28.3 The adoption of a perfecting amendment inserting language at the end of a paragraph does not preclude further perfecting amendments to the original paragraph or an amendment striking the entire perfected paragraph and inserting new language. 118 CONG. REC. 21104, 92d Cong. 2d Sess., June 15, 1972 [H.R. 15417]. But where a bill is being read by sections, and committee amendments adding new sections at the end of a bill have been adopted, an amendment proposing to strike out a section of the original bill and the new sections is not in order. 117 CONG. REC. 5856-58, 92d Cong. 1st Sess., Mar. 10, 1971 [H.R. 4246].

§ 28.4 While an amendment which has been agreed to may not be modified, a proposition to strike it from the bill with other language of

the original text is in order. 106 CONG. REC. 13874, 13880, 86th Cong. 2d Sess., June 22, 1960; 106 CONG. REC. 14060, 86th Cong. 2d Sess., June 23, 1960 [H.R. 12261]; 107 CONG. REC. 16059, 87th Cong. 1st Sess., Aug. 16, 1961 [H.R. 8400]. Similarly, although a provision inserted by amendment may not thereafter be stricken, a motion to strike more than the provision previously inserted would be in order. 121 CONG. REC. 11536, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096]. Thus, where a sentence in a section of a bill has been amended, a further amendment to that section striking the language inserted by the previous amendment and striking additional language of the section is in order. 122 CONG. REC. 507, 94th Cong. 2d Sess., Jan. 21, 1976 [H.R. 6721]. An amendment to strike the adopted language from the bill with other language of the original text and insert new text is likewise in order. 106 CONG. REC. 13874-80, 86th Cong. 2d Sess., June 22, 1960 [H.R. 12261]; 118 CONG. REC. 16848, 16852, 92d Cong. 2d Sess., May 11, 1972 [H.R. 7130]; 121 CONG. REC. 34415, 94th Cong. 1st Sess., Oct. 30, 1975 [H.R. 8603].

§ 28.5 While the adoption of an amendment changing all the text of a section precludes a vote on a pending motion to strike out that section, the motion to strike will still be voted on where the perfecting amendment to the section changes some but not all of that text. 121 CONG. REC. 30770, 94th Cong. 1st Sess., Sept. 29, 1975 [H.R. 8630]. However, in this situation another perfecting amendment to strike out the remainder of the section not yet perfected may be offered and voted on prior to the motion to strike the section and, if adopted, the motion to strike the section would then fall, the whole text having been changed. 121 CONG. REC. 30772, 30773, 94th Cong. 1st Sess., Sept. 29, 1975 [H.R. 8630].

§ 28.6 The adoption of a committee amendment perfecting a section of a bill does not preclude the offering of a motion to strike the entire section. 121 CONG. REC. 39067, 94th Cong. 1st Sess., Dec. 8, 1975 [H.R. 8631].

§ 29. Effect of Adoption of Motion to Strike Out and Insert

§ 29.1 If an amendment to strike out a section in a bill and insert new language is agreed to, a pending amendment proposing to strike out the section falls and is not voted on. 116 CONG. REC. 31840-46, 91st Cong. 2d Sess., Sept. 15, 1970 [H.R. 17654]. The same result obtains on the adoption of an amendment to strike out a subsection of a bill and insert new provisions; the offering of an amendment to strike out that subsection is precluded. 116 CONG. REC. 42227-31, 91st Cong. 2d Sess., Dec. 17, 1970 [H.R. 19446]. Similarly, once a title of a bill has been amended in its entirety by adoption of a motion to strike it out and insert a new text, a motion to strike out the title is not in order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 23, 1979 [H.R. 2172]. And when an amendment striking out certain language and inserting other provisions has been adopted, it is not in order to further amend the provisions so inserted. 106 CONG. REC. 5755, 5762, 86th Cong. 2d Sess., Mar. 16, 1960 [H.R. 8601]; 107 CONG. REC. 8117, 8120, 87th Cong. 1st Sess., May 16, 1961; 107 CONG. REC. 11093-98, 11100-03, 87th Cong. 1st Sess., June 22, 1961 [H.R. 6028].

§ 29.2 Although it is not in order to propose an amendment changing the precise language of an amendment already agreed to, the adoption of a perfecting amendment to strike out and insert does not preclude the offering of another amendment to strike out and insert which goes beyond the changes made by the first amendment. 118 CONG. REC. 23406-08, 92d Cong. 2d Sess., June 29, 1972 [H.R. 15692]. Similarly, while it is not in order to perfect or reinsert language which has been stricken, an amendment may be offered to

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insert new language if it is germane to the bill and not identical to the language stricken. 122 CONG. REC. 28958, 94th Cong. 2d Sess., Sept. 2, 1976 [H.R. 13636]. However, if a motion to strike out all after the first word of text and insert a new provision is agreed to, the language thus inserted cannot thereafter be amended. 110 CONG. REC. 2489, 88th Cong. 2d Sess., Feb. 7, 1964 [H.R. 7152].

§ 29.3 Where an amendment has been adopted striking out language in a bill, a perfecting amendment to the stricken language comes too late and is not in order. 119 CONG. REC. 23970-72, 23983, 23984, 93d Cong. 1st Sess., July 16, 1973 [H.R. 8860]. Thus, where the Committee of the Whole has adopted an amendment striking out several consecutive paragaphs in a bill, an amendment proposing to insert language in a paragraph which had been stricken comes too late. 119 CONG. REC. 23970, 23983, 23984, 93d Cong. 1st Sess., July 16, 1973 [H.R. 8860]. Similarly, where an amendment striking out a section and inserting new language has been adopted, it is not in order to propose a further amendment to that section. 120 CONG. REC. 24108 et seq., 93d Cong. 2d Sess., July 18, 1974 [H.R. 11500].

§ 29.4 Following deferral of action on the first committee amendment reported, the second committee amendment was reported, amended, and agreed to; and, since it included a provision which struck out and inserted new language in lieu of that contained in the first committee amendment, the first committee amendment fell and was not acted on. See 109 CONG. REC. 19561, 88th Cong. 1st Sess., Oct. 15, 1963 [H.R. 6237].

§ 29.5 Where the first section of a title of a bill being read by titles has been modified by striking that section and inserting new language, an amendment to strike that section and two additional sections of that title not so altered was held in order. 121 CONG. REC. 26947, 94th Cong. 1st Sess., Aug. 1, 1975 [H.R. 7014].

§ 29.6 Where there is pending a motion to strike out a section and a perfecting amendment (to strike the section and insert new language) is then offered and agreed to, the motion to strike the section falls and is not voted upon and a renewed motion to strike the section is not in order since the section has been amended in its entirety. 121 CONG. REC. 30098, 94th Cong. 1st Sess., Sept. 24, 1975 [H.R. 6844].

§ 30. Adoption of Amendment in Nature of Substitute

§ 30.1 Where an amendment in the nature of a substitute is agreed to, further amendment is not in order. 110 CONG. REC. 18608, 88th Cong. 2d Sess., Aug. 7, 1964 [during consideration of H.R. 11377]; 121 CONG. REC. 35528, 94th Cong. 1st Sess., Nov. 7, 1975 [H.R 6346]. Since the stage of amendment is passed, further amendments, including pro forma amendments for debate, are not in order. 123 CONG. REC. 14622, 95th Cong. 1st Sess., May 13, 1977 [H.R. 6810].

§ 30.2 A resolution reported from the Committee on Rules, which merely makes in order the consideration of a particular amendment in the nature of a substitute but does not waive points of order or otherwise confer a privileged status on the amendment, does not, absent legislative history establishing a contrary intent by that committee, alter the principle that adoption of one amendment in the nature of a substitute precludes the offering of another. 124 CONG. REC. 15094, 95th Cong. 2d Sess., May 23, 1978 [H. Res. 1118].

§ 30.3 Where the House has adopted an amendment in the nature of a substitute, such amendment cannot be further amended by way of a motion to recommit; and, absent a special rule, only a simple motion to recommit would be in order. 106 CONG. REC. 9416, 86th Cong. 2d Sess., May 4, 1960; 108 CONG. REC.

826, 87th Cong. 2d Sess., Jan. 24, 1962 [H.R. 7927].

§ 30.4 An amendment to the text of a resolution comes too late when an amendment in the nature of a substitute for such text has already been agreed to. 113 CONG. REC. 7679-83, 90th Cong. 1st Sess., Mar. 22, 1967 [H.J. Res. 428].

§ 30.5 Adoption of a committee amendment in the nature of a substitute, as amended by a substitute, precludes further amendment to the committee amendment and to the bill. 116 CONG. REC. 20206, 91st Cong. 2d Sess., June 17, 1970 [H.R. 17070]. Where a substitute for an amendment in the nature of a substitute has been agreed to, the question recurs immediately upon the amendment as amended by the substitute, and further perfecting amendments to the amendment are not then in order. 122 CONG. REC. 2649, 94th Cong. 2d Sess., Feb. 5, 1976 [H.R. 9464].

§ 30.6 Where there was pending an amendment in the nature of a substitute and a substitute therefor, the Chairman indicated that adoption of the substitute would preclude further amendment to the amendment in the nature of a substitute. 119 CONG. REC. 24668, 93d Cong. 1st Sess., July 18, 1973 [H.J. Res. 542]. Following the adoption of a substitute for an amentment, the vote recurs immediately on the amendment as amended, and no further amendments to the amendment are in order (but a Member may be recognized by unanimous consent to offer a pro forma amendment). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 25, 1980 [H.R. 6081].

§ 30.7 Where a committee amendment in the nature of a substitute was being read for amendment as an original bill and there was pending thereto an amendment in the nature of a substitute, the Chair indicated that the committee amendment would not be open to further amendment upon the adoption of the substitute therefor, and in that event and upon adoption of the committee amendment as amended, the stage of amendment would be passed. 118 CONG. REC. 16862, 92d Cong. 2d Sess., May 11, 1972 [H.R. 7130].

§ 30.8 When an amendment in the nature of a substitute for the entire bill, offered immediately after the reading of title I, was pending, the Chair advised that (1) if the amendment was rejected title I would still be pending, and (2) if the amendment was agreed to it would not be subject to further amendment. 111 CONG. REC. 25437, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644].

§ 30.9 Where debate has been closed on a pending amendment in the nature of a substitute and all amendments thereto, adoption of that amendment would cause the stage of amendment to be passed and amendments, though printed in the *Congressional Record*, could not thereafter be offered to the bill. 121 CONG. REC. 11499, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 30.10 While it is not in order to further amend an amendment in the nature of a substitute for several paragraphs which has been offered following the reading of the first paragraph and agreed to, it is in order to insert language—which does not directly change the adopted amendment—immediately thereafter, where the Clerk has not yet read the next paragraph of the bill which would be stricken out in conformity with the adopted amendment. 120 CONG. REC. 33364, 93d Cong. 2d Sess., Oct. 1, 1974 [H.R. 16900].

§ 31. Amendments Pertaining to Monetary Figures

§ 31.1 When an amendment to a figure in a bill has been agreed to, further amendment of that sum is not in order. 113 CONG. REC. 19985, 19992, 90th Cong. 1st Sess., July 25, 1967 [H.R. 11641]. It follows that where a sum has been changed by amendment, it is not in

order to further amend the same figure. 113 CONG. REC. 17754, 90th Cong. 1st Sess., June 28, 1967 [H.R. 10340]; 121 CONG. REC. 12404, 94th Cong. 1st Sess., Apr. 30, 1975 [H. Con. Res. 218]; 122 CONG. REC. 20401, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232].

§ 31.2 Where the Committee of the Whole has adopted an amendment changing the total figure in a paragraph of an appropriation bill, it is not in order to further amend such figure. 115 CONG. REC. 21458, 91st Cong. 1st Sess., July 30, 1969 [H.R. 13111]. But where a total authorization is comprised of individual projects with line-item amounts, such line-items are subject to amendment notwithstanding the fact that a perfecting amendment to the total authorization precludes further amendment of the total sum. 113 CONG. REC. 17755, 90th Cong. 1st Sess., June 28, 1967 [H.R. 10340].

§ 31.3 When an amendment changing an amount of money in a bill has been agreed to, an amendment proposing a further change in amount is not in order. But where a figure in an appropriation bill has been agreed to an amendment inserted following the figure agreed upon and providing funds "in addition thereto" is in order. 105 CONG. REC. 10055, 10057, 86th Cong. 1st Sess., June 5, 1959 [H.R. 7509].

§ 31.4 Where there was pending in the Committee of the Whole a perfecting amendment to a concurrent resolution on the budget changing several figures therein, the Chair indicated that adoption of that amendment would preclude further amendment merely changing those amended figures but would not preclude more comprehensive amendments changing other portions of the resolution which had not been amended. 123 CONG. REC. 12485, 95th Cong. 1st Sess., Apr. 27, 1977 [H. Con. Res. 195]. See also § 27.10, supra.

§ 31.5 After adoption of an amendment or amendments changing monetary figures in a bill, further amendments merely changing those figures are not in order, but an amendment making a general percentage reduction in all figures contained in the bill and indirectly affecting those figures, is still in order. 124 CONG. REC. 24686, 95th Cong. 2d Sess., Aug. 7, 1978 [H.R. 13635].

§ 32. Effecting Changes by Unanimous Consent

§ 32.1 By unanimous consent, it is in order to amend an amendment which has already been agreed to. 116 CONG. REC. 32303, 91st Cong. 2d Sess., Sept. 17, 1970 [H.R. 17654].

§ 32.2 The Committee of the Whole, by unanimous consent, may vacate the proceedings whereby it has agreed to an amendment, and then adopt the amendment in a revised form (112 CONG. REC. 18482, 89th Cong. 2d Sess., Aug. 8, 1966 [H.R. 14765]), or it may agree to an amendment to the amendment and adopt the original amendment as amended. 116 CONG. REC. 39086, 91st Cong. 2d Sess., Nov. 30, 1970 [H.R. 16443]. In one instance in the 95th Congress, after the Committee of the Whole had adopted an amendment in the nature of a substitute, the Chair, by unanimous consent, vacated that action to allow a Member to offer a pro forma amendment. 123 CONG. REC. 14622, 95th Cong. 1st Sess., May 13, 1977 [H.R. 6810]. Pending a request for a recorded vote, following a voice vote on the amendment, the Committee of the Whole, by unanimous consent, vacated the proceedings whereby the Chair had put the question, and permitted a modification of the amendment by the proponent and further debate. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Jan. 29, 1980 [H.R. 4788].

§ 32.3 Pursuant to a unanimous-consent request, the House vacated its action in agreeing to a concurrent resolution with an amendment, and agreed to the resolution without amendment. 111 CONG. REC. 14425, 89th

Cong. 1st Sess., June 22, 1965 [S. Con. Res. 36].

§ 33. Amendments Previously Considered and Rejected

§ 33.1 It is not in order to offer an amendment identical to one previously rejected. 110 CONG. REC. 2727, 88th Cong. 2d Sess., Feb. 10, 1964 [H.R. 7152]. An amendment once rejected cannot be reoffered in identical form. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 12, 1980. And this principle applies to the repetition of a motion to strike out. 112 CONG. REC. 18418, 89th Cong. 2d Sess., Aug. 5, 1966 [H.R. 14765].

§ 33.2 An amendment previously rejected may not be offered a second time; however, an amendment similar but not identical thereto may be considered. 113 CONG. REC. 19418, 19423, 90th Cong. 1st Sess., July 19, 1967. Mere similarity of an amendment to one previously considered and rejected is not sufficient to prevent its consideration if a substantive change has been made. 124 CONG. REC. 4470, 95th Cong. 2d Sess., Feb. 23, 1978. It is admissible if sufficiently different in form to present another proposition. See 107 CONG. REC. 9349, 87th Cong. 1st Sess., June 1, 1961. An amendment in different form may be entertained even though its effect may be similar to that of the rejected amendment. 115 CONG. REC. 13754, 91st Cong. 1st Sess., May 26, 1969 [H.R. 11612]. See also 106 CONG. REC. 6159, 86th Cong. 2d Sess., Mar. 21, 1960 [H.R. 8601]; 113 CONG. REC. 19418, 19423, 90th Cong. 1st Sess., July 19, 1967 [H.R. 421]; 121 CONG. REC. 29841, 94th Cong. 1st Sess., Sept. 23, 1975 [H.R. 7014]. Thus, after an amendment containing a limitation on the use of funds in an appropriation bill had been rejected, the Chair held that another amendment—containing a similar limitation and also stating an exception from that limitation—was not an identical amendment and could be offered. 118 CONG. REC. 23378, 92d Cong. 2d Sess., June 29, 1972 [H.R. 15690]. Indeed, in one instance, a change in only two figures in an amendment already considered and rejected was held sufficient to permit the consideration of that new amendment. 121 CONG. REC. 29841, 94th Cong. 1st Sess., Sept. 23, 1975 [H.R. 7014]. Presiding officers have been reluctant to rule out an amendment as dilatory merely because of a similarity to one previously rejected. 124 CONG. REC. 24702, 95th Cong. 2d Sess., Aug. 7, 1978.

§ 33.3 Rejection of a substitute does not preclude further ad hoc offering of amendments to a pending amendment. 111 CONG. REC. 25418, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644].

§ 33.4 Rejection of several amendments considered en bloc by unanimous consent does not preclude their being offered separately at a subsequent time. 119 CONG. REC. 18518, 18521, 93d Cong. 1st Sess., June 7, 1973 [H.R. 7446]. It follows that where an amendment to a figure in a bill considered en bloc with other amendments has been rejected, no point of order lies against a subsequent amendment to that figure which specifies a different amount and which is offered as a separate amendment. 124 CONG. REC. 24702, 95th Cong. 2d Sess., Aug. 7, 1978 [H.R. 13635].

G. HOUSE CONSIDERATION OF AMENDMENTS REPORTED FROM COMMITTEE OF THE WHOLE

§ 34. In General; Demands for Separate Vote

§ 34.1 In the absence of a special rule providing therefor, a separate vote may not be had in the House on an amendment to an amendment

which has been adopted by the Committee of the Whole. 113 CONG. REC. 25228, 90th Cong. 1st Sess., Sept. 12, 1967 [H.R. 10409]; 114 CONG. REC. 21545, 90th Cong. 2d Sess., July 16, 1968 [H. Res. 1240]. This principle precludes a separate vote in the House on an amendment to an amendment in the nature of a substitute adopted in the Committee. 113 CONG. REC. 29317, 90th Cong. 1st Sess., Oct. 18, 1967 [H.J. Res. 888]. But a Member may demand a separate vote in the House on an amendment to an amendment in the nature of a substitute adopted in the Committee where the bill is being considered under a special rule permitting separate votes in the House on such amendments. 106 CONG. REC. 11282, 11292, 11296-98, 11301, 86th Cong. 2d Sess., May 26, 1960 [H.R. 10128]; 110 CONG. REC. 2804, 88th Cong. 2d Sess., Feb. 10, 1964 [H.R. 7152]; 117 CONG. REC. 34337, 92d Cong. 1st Sess., Sept. 30, 1971 [H.R. 10351].

§ 34.2 Normally, if the Committee of the Whole perfects a bill by adopting certain amendments and then adopts an amendment striking out provisions including the portions previously amended and inserting a new text, only the bill, as amended by the motion to strike out and insert, is reported to the House. 113 CONG. REC. 16487 et seq., 90th Cong. 1st Sess., June 20, 1967 [H.R. 10480]. The adoption by the Committee of an amendment striking out a section of a bill vitiates the Committee's prior adoption of perfecting amendments to that section, so that only the motion to strike out is reported to the House. 120 CONG. REC. 2078, 2079, 93d Cong. 2d Sess., Feb. 5, 1974. But when the bill is being considered under a special rule permitting a separate vote in the House on any amendments adopted in the Committee, all amendments adopted in the Committee are reported to the House, regardless of their inconsistency. 106 CONG. REC. 11302-04, 86th Cong. 2d Sess., May 26, 1960 [H.R. 10128].

§ 34.3 *Where the Committee of the Whole* had adopted perfecting amendments to a section of a bill and had then agreed to an amendment striking out the entire section, the Speaker indicated in response to parliamentary inquiries: (1) only the amendment striking out the section had been reported to the House and therefore the original language of that section—absent any amendment—would be before the House upon rejection of the motion to strike out; and (2) that section could only be further amended in the House by a motion to recommit with instructions, the previous question having been ordered on the bill to final passage. 120 CONG. REC. 2078, 2079, 93d Cong. 2d Sess., Feb. 5, 1974. As to effect of a special rule permitting separate votes in the House on *any* amendments adopted in the Committee of the Whole, see § 36.3, infra.

§ 34.4 Where a special rule permits a demand in the House for a separate vote on an amendment adopted to an amendment in the nature of a substitute for a bill reported from Committee of the Whole, the Speaker inquires whether a separate vote is demanded before putting the question on the amendment in the nature of a substitute. 119 CONG. REC. 7138, 93d Cong. 1st Sess., Mar. 8, 1973 [H.R. 17]. A Member must demand the separate vote before the question is taken on the substitute. 118 CONG. REC. 31409, 92d Cong. 2d Sess., Sept. 20, 1972 [H.R. 15003]. A demand in the House for a separate vote on an amendment to the amendment comes too late after the amendment, as amended, has been agreed to. 113 CONG. REC. 30827, 90th Cong. 1st Sess., Nov. 1, 1967 [S. 1985].

§ 34.5 The proper time to demand separate votes in the House on amendments adopted in the Committee of the Whole is following the Speaker's announcement that the previous question has been ordered. 111 CONG. REC. 16280, 16283, 89th Cong. 1st Sess., July 9, 1965 [H.R. 6400].

§ 34.6 *Where a Member* demands a separate vote in the House on an amendment adopted in the Committee of the Whole, he must identify the amendment in terms that are meaningful to the House—such as by specifying the page and line in the bill where the amendment is found. 112 CONG. REC. 25585-87, 89th Cong. 2d Sess., Oct. 6, 1966 [H.R. 13161].

§ 34.7 By unanimous consent, two amendments upon which a separate vote has been demanded may be considered and voted on en bloc. 112 CONG. REC. 25585-87, 89th Cong. 2d Sess., Oct. 6, 1966 [H.R. 13161].

§ 34.8 Where a bill is reported from the Committee of the Whole with one amendment, the Speaker immediately puts the question on the amendment and does not inquire whether a separate vote is demanded thereon. 120 CONG. REC. 40509, 93d Cong. 2d Sess., Dec. 17, 1974 [H.R. 15263, the Rice Act of 1975].

§ 34.9 En bloc consideration of certain amendments in Committee of the Whole pursuant to a special rule results in a vote en bloc in the House on a demand for a separate vote on those amendments in their perfected form. 124 CONG. REC. 28423, 95th Cong. 2d Sess., Sept. 7, 1978 [H.R. 7308]. Accordingly, where amendments reported to the House include amendments considered en bloc in Committee of the Whole, and a separate vote is demanded in the House on the amendments considered en bloc, the Chair puts the question separately on the amendments en bloc in the House, where no Member demands a division of the question in the House. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 29, 1979 [H.R. 3173]. But another amendment separately considered in Committee may not be voted on with the en bloc amendments in the House (absent unanimous consent). 124 CONG. REC. 28423, 95th Cong. 2d Sess., Sept. 7, 1978 [H.R. 7308]. *Note:* En bloc consideration of amendments in Committee of the Whole pursuant to a unanimous-consent request therein does not necessarily result in an en bloc vote in the House upon demand for a separate vote, since that is only an order of the Committee not binding on the House.

§ 35. Order of Consideration

§ 35.1 When demand is made for separate votes in the House on several amendments adopted in the Committee of the Whole, the amendments are voted on in the House in the order in which they appear in the bill. 114 CONG. REC. 23093-95, 90th Cong. 2d Sess., July 24, 1968 [H.R. 17735]; 119 CONG. REC. 24959, 24965, et seq., 93d Cong. 1st Sess., July 19, 1973 [H.R. 8860]; 122 CONG. REC. 20424, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232].

§ 35.2 When demand is made for separate votes in the House on several amendments adopted in the Committee of the Whole, such amendments are read and voted on in the House in the order in which they appear in the bill as reported from the Committee of the Whole—not necessarily in the order in which agreed to in Committee or in which demanded in the House. 112 CONG. REC. 18736-39, 89th Cong. 2d Sess., Aug. 9, 1966 [H.R. 14765].

§ 35.3 When a special rule provides for a separate vote on an amendment to an amendment in the nature of a substitute reported from the Committee of the Whole, the vote first recurs on the amendment on which the separate vote is demanded. 114 CONG. REC. 23372, 90th Cong. 2d Sess., July 25, 1968 [H.R. 15067].

§ 35.4 Where a committee amendment in the nature of a substitute is amended in Committee of the Whole by the adoption of a substitute and is reported to the House under a procedure permitting a separate vote on any amendment to the committee amendment any Member may demand a separate vote on the substitute and, if it is adopted, the vote recurs on the committee amendment as amended by

the substitute. 116 CONG. REC. 38715, 38723, 38724, 91st Cong. 2d Sess., Nov. 24, 1970 [H.R. 16785].

§ 35.5 Where all amendments reported from the Committee of the Whole have been agreed to but one on which a separate vote was demanded, the Chair must put the question on the remaining amendment even though the Member making the demand for the separate vote asks to withdraw the demand. 114 CONG. REC. 1850-52, 90th Cong. 2d Sess., Feb. 1, 1968 [H.R. 11601].

§ 35.6 Where a committee amendment in the nature of a substitute is reported from the Committee of the Whole with various amendments thereto, and, under a rule permitting such procedure, separate votes are demanded in the House on several of those amendments, the Speaker puts the question first on those amendments on which a separate vote is demanded, then on the amendment, as amended. See 112 CONG. REC. 25585-87, 89th Cong. 2d Sess., Oct. 6, 1966 [H.R. 13161].

§ 35.7 Where a committee amendment in the nature of a substitute is amended in Committee of the Whole by the adoption of a substitute and is reported to the House under a procedure permitting a separate vote on any amendment to the committee amendment, the House is faced with three possible versions of the bill (the substitute, the committee amendment, or the text of the bill as introduced) since, if the substitute and the committee amendment are both rejected, the House then votes on the original bill. 116 CONG. REC. 19842, 91st Cong. 2d Sess., June 16, 1970 [H. Res. 1077].

§ 35.8 Where a resolution proposed to make in order a committee amendment in the nature of a substitute as an original bill for amendment, to make in order the text of another bill as a substitute therefor, and to permit a separate vote on any amendment adopted to the committee amendment, the Speaker pro tempore indicated that should the substitute for the committee amendment be adopted in Committee of the Whole, the committee amendment as so amended be then reported to the House, and the substitute rejected on a separate vote in the House, the question would recur on the committee amendment, which would not be open to further amendment. 116 CONG. REC. 19842, 91st Cong. 2d Sess., June 16, 1970 [H. Res. 1077].

§ 36. Effect of Rejection of Amendment

§ 36.1 When the House rejects an amendment adopted in the Committee of the Whole, only the original text of the bill is before the House. 113 CONG. REC. 16487 et seq., 90th Cong. 1st Sess., June 20, 1967 [H.R. 10480].

§ 36.2 If an amendment striking out and inserting is reported from the Committee of the Whole and rejected by the House, the language of the original bill is before the House. 114 CONG. REC. 1421, 90th Cong. 2d Sess., Jan. 30, 1968 [H. Res. 1043]; 124 CONG. REC. 23955, 95th Cong. 2d Sess., Aug. 2, 1978 [H.R. 12514].

§ 36.3 Where a perfecting amendment adopted in the Committee of the Whole is superseded by adoption of an amendment in the Committee striking out the section comprehending the perfecting amendment, the perfecting amendment is not reported to the House, and the bill returns to its originally introduced form upon rejection by the House of the amendment reported from the Committee of the Whole. 122 CONG. REC. 25425, 94th Cong. 2d Sess., Aug. 4, 1976 [H.R. 8401]. Thus, where the Committee of the Whole adopts several perfecting amendments to a title of a bill and then agrees to an amendment striking out that title, only the latter amendment is reported to the House, and in the event of its rejection in the House the original title, and not the perfected text, is before the House. 118

CONG. REC. 26626, 92d Cong. 2d Sess., Aug. 3, 1972 [H.R. 15989]. However, the situation may be different where the House is operating under a special rule. Where the Committee of the Whole reports a bill back to the House with an adopted committee amendment in the nature of a substitute pursuant to a special rule allowing separate votes in the House on *any* amendment adopted in the Committee of the Whole to the bill or to that committee substitute, and a separate vote is demanded in the House only on an amendment striking out a section of the committee substitute, but not on perfecting amendments which have previously been adopted in the Committee of the Whole to that section, rejection in the House of the motion to strike the section results in a vote on the committee substitute with that section in its original form and not as perfected—the perfecting amendments having been displaced in the Committee of the Whole by the motion to strike and not having been revived on a separate vote in the House. 123 CONG. REC. p. ....., 95th Cong. 1st Sess., Oct. 13, 1977 [H.R. 3816]. *Note:* House Resolution 718, the special rule under which the House was operating, provided that the committee amendment in the nature of a substitute be read as an original bill for amendment and that separate votes could be demanded in the House on any amendment adopted in Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. As indicated elsewhere (§ 34, supra), under such a rule all amendments adopted in Committee to the amendment in the nature of a substitute are reported to the House regardless of their inconsistency; and the House on the instant occasion could have retained the section as perfected in Committee of the Whole by first adopting on separate votes the perfecting amendments to the section and then rejecting on a separate vote the motion to strike that section. A Member who fails to demand a separate vote on a perfecting amendment to a portion of an amendment being read as original text, where a separate vote is demanded on a motion to strike which has deleted that perfecting language, allows the perfecting language to lapse whether or not the motion to strike is adopted on a separate vote.

§ 36.4 If an amendment in the nature of a substitute is reported from the Committee of the Whole and rejected by the House, the original bill [as referred to the committee having jurisdiction] is before the House. 111 CONG. REC. 25418, 25438, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644].

§ 36.5 The House having rejected an amendment in the nature of a substitute reported from the Committee of the Whole and the previous question having been ordered on the bill to final passage, the question recurs on engrossment and third reading of the bill as originally introduced. 116 CONG. REC. 42032-35, 91st Cong. 2d Sess., Dec. 16, 1970 [H.R. 18582].

§ 36.6 If the Committee of the Whole reports a bill back to the House with an amendment, and the amendment is rejected, the bill is not open to further amendment in the House if the previous question has been ordered. 111 CONG. REC. 25418, 89th Cong. 1st Sess., Sept. 29, 1965 [H.R. 4644].

Chapter 28

Amendments and the Germaneness Rule

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A. General Principles

§ 1. Introduction

§ 1.1 It is a rule of long-standing in the House that "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." Rule XVI clause 7.

§ 1.2 The germaneness rule requires that the subject matter of an amendment relate to the bill (or portion thereof) to which it is offered. 113 CONG. REC. 28649, 90th Cong. 1st Sess., Oct. 11, 1967. The Chair considers the relationship of the amendment to the bill as modified by the Committee of the Whole (114 CONG. REC. 22789, 90th Cong. 2d Sess., July 23, 1968), and not the relationship between the amendment and an existing statute which the pending bill seeks to amend. 113 CONG. REC. 28649, 90th Cong. 1st Sess., Oct. 11, 1967. The Chair considers the relationship of the amendment to the text to which it is offered and does not rely on language in accompanying reports not contained in the pending text. 124 CONG. REC. 34111, 95th Cong. 2d Sess., Oct 6, 1978 [H.R. 13750].

§ 1.3 The germaneness requirement applies in the House even prior to the adoption of the rules (115 CONG. REC. 23, 91st Cong. 1st Sess., Jan. 3, 1969) since the House at that time is operating under general parliamentary law. It follows that an amendment offered prior to the adoption of the rules may be subject to a point of order if it is not germane to the proposition to which offered. 115 CONG. REC. 23, 91st Cong. 1st Sess., Jan. 3, 1969.

§ 1.4 The title or heading of a bill is not controlling in determining the question of germaneness of amendments offered to propositions in the bill. 117 CONG. REC. 39323-29, 92d Cong. 1st Sess., Nov. 4, 1971. The scope of a measure is determined by its provisions and not by the phraseology of the formal heading of its title. 121 CONG. REC. 29334, 94th Cong. 1st Sess., Sept. 18, 1975 [H.R. 7014]. Thus, the heading of a portion of a bill as "Miscellaneous" will not alone permit amendments to that portion which are not germane thereto. But the inclusion of provisions under such a heading may be sufficiently diverse as to permit an amendment to be tested by its germaneness to the bill as a whole. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 10, 1979 [H.R. 3342].

§ 1.5 The germaneness of an amendment should be determined from provisions of its text rather than from the purposes which circumstances may suggest. 119 CONG. REC. 41267-69, 93d Cong. 1st Sess., Dec. 13, 1973; 120 CONG. REC. 28438, 93d Cong. 2d Sess., Aug. 15, 1974 [H.R. 12859].

§ 2. Proposition to Which Amendment Must Be Germane

§ 2.1 Normally, the subject matter of an amendment must be germane to the portion of th bill to which offered. 113 CONG. REC. 28649, 90th Cong. 1st Sess., Oct. 11, 1967; 117 CONG. REC. 36194, 36211, 92d Cong. 1st Sess., Oct. 14, 1971. However, there are established exceptions to this rule, depending on the scope and form of the text open to amendment. See §§ 2.2 et seq., infra.

§ 2.2 The test of germaneness of an amendment offered to a bill being read for amendment by titles is its relationship to the pending title as perfected. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979 [H.R. 3342]. But where an amendment in the form of a new title is offered to a bill containing several diverse titles on a general subject, it is sufficient that the amendment be germane to the bill as a whole. 117 CONG. REC. 39267, 92d Cong. 1st Sess., Nov. 4, 1971. Similarly, an amendment

in the form of a new section need not necessarily be germane to the preceding section of the bill, it being sufficient that the amendment relate to the bill as a whole. By the same reasoning, an amendment in the form of a new paragraph need not necessarily be germane to the paragraph immediately preceding it. See 120 CONG. REC. 22029, 93d Cong. 2d Sess., July 2, 1974 [H.R. 15465].

§ 2.3 The test of germaneness of an amendment to a pending amendment is its relationship to the pending amendment and not to the bill to which that pending amendment has been offered. 121 CONG. REC. 23990, 94th Cong. 1st Sess., July 22, 1975 [H.R. 7014]; 121 CONG. REC. 31487, 94th Cong. 1st Sess., Oct. 2, 1975 [S. 2230]. It follows that the test of germaneness of a substitute for a pending amendment is the relationship between the substitute and the amendment, and not between the substitute and the bill to which the amendment has been offered. 117 CONG. REC. 39302, 92d Cong. 1st Sess., Nov. 4, 1971. Similarly, the test of germaneness of an amendment offered to an amendment in the nature of a substitute is the relationship between that amendment and the amendment in the nature of a substitute, and not between the amendment and the pending bill. 119 CONG. REC. 24962, 24963, 93d Cong. 1st Sess., July 19, 1973. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Nov. 13, 1980.

§ 2.4 An amendment may be germane to more than one portion of a bill. 120 CONG. REC. 8508, 8509, 93d Cong. 2d Sess., Mar. 27, 1974 [H.R. 69]. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 21, 1980. The text before the House or Committee of the Whole must be evaluated when passing on the germaneness of a particular amendment. An amendment that might be considered germane if offered at the end of the reading of the bill for amendment may not be germane if offered during the reading, before all the provisions of the bill are open to consideration. 115 CONG. REC. 28442, 91st Cong. 1st Sess., Oct. 3, 1969. And where a bill is, by unanimous consent, considered as read and open to amendment at any point, a factor in weighing the germaneness of an amendment thereto may be its relationship to the entire bill and not just the particular section to which offered. 121 CONG. REC. 30761-68, 94th Cong. 1st Sess., Sept. 29, 1975 [H.R. 8630].

§ 2.5 Where a perfecting amendment to text is offered pending a vote on a motion to strike out the same text, the perfecting amendment must be germane to the text to which offered, not to the motion to strike out. 115 CONG. REC. 28454, 91st Cong. 1st Sess., Oct. 3, 1969. And a perfecting amendment may be ruled out as not germane where it pertains to a subject carried in text which has been stricken from the bill pursuant to motion. 108 CONG. REC. 13431, 87th Cong. 2d Sess., July 12, 1962.

§ 2.6 In passing on the germaneness of an amendment, the Chairman considers the relationship of the amendment to the bill as modified by prior amendment (113 CONG. REC. 15159, 90th Cong. 1st Sess., June 8, 1967; 120 CONG. REC. 34415, 34416, 93d Cong. 2d Sess., Oct. 8, 1974 [H.Res. 988]; 121 CONG. REC. 11550, 94th Cong. 1st Sess., Apr. 23, 1975 [H.Res. 6096]), and is not bound solely by the narrower committee jurisdiction reflected in the reported text. 120 CONG. REC. 5306-09, 93d Cong. 2d Sess., Mar. 5, 1974 [H.R. 11793].

§ 2.7 Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends upon its relationship to the subject of the bill and not to the entire law being amended. 121 CONG. REC. 34037, 94th Cong. 1st Sess., Oct. 28, 1975 [H.R. 6227].

§ 2.8 *Note:* The text of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, even when the amendment is offered at the

end of the first section of the bill, and the amendment will not be ruled out merely because of an incidental portion which, if offered separately, might not be germane. 121 CONG. REC. 21633, 21634, 94th Cong. 1st Sess., July 8, 1975 [H.R. 49].

§ 2.9 Where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken by the Senate amendment. 120 CONG. REC. 39272, 39273, 93d Cong. 2d Sess., Dec. 12, 1974 [H.R. 16901].

§ 2.10 An amendment is not in order which would change a portion of a bill which has been passed in the reading under the five-minute rule. 117 CONG. REC. 36194, 36211, 92d Cong. 1st Sess., Oct. 14, 1971.

§ 2.11 The germaneness of an amendment is determined by its relationship to the form of the bill at the time the amendment is offered and is not affected by prior adoption of a special rule permitting consideration of a nongermane committee amendment where the committee amendment has not yet been considered. 121 CONG. REC. 30226, 30227, 94th Cong. 1st Sess., Sept. 25, 1975 [H.R. 1287].

§ 2.12 To a title of an amendment in the nature of a substitute amending several diverse educational assistance laws, an amendment relating to federal impact school assistance (a subject contained in another title already passed in the reading for amendment) was held germane. 120 CONG. REC. 8508, 8509, 93d Cong. 2d Sess., Mar. 27, 1974 [H.R. 69].

§ 2.13 An amendment to a second concurrent resolution on the budget must be germane to the text of the resolution; further, absent any demonstrable relationship to a specific provision therein, the amendment must only contain matter reaffirming or revising in a germane manner the first concurrent resolution on the budget. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Nov. 18, 1980 [H. Con. Res. 448].

§ 3. Amendment as Relating to Subject Under Consideration

§ 3.1 An amendment must relate to the subject matter under consideration. Thus, to a bill to eliminate wage discrimination based on the sex of the employee, an amendment to make the provisions of the bill applicable to discrimination based on race was ruled out as not germane. 108 CONG. REC. 14778, 87th Cong. 2d Sess., July 25, 1962.

§ 3.2 To a bill authorizing new foreign-aid programs and extending and revising existing mutual security laws, an amendment intended to discourage the establishment of foreign chanceries in residential areas of the District of Columbia was ruled out as not germane. 107 CONG. REC. 16059, 87th Cong. 1st Sess., Aug. 16, 1961.

§ 3.3 To an omnibus federal-aid highway bill, an amendment in the form of a new section commending certain members of the Armed Forces for specified military operations was ruled out as not germane. 116 CONG. REC. 38971, 91st Cong. 2d Sess., Nov. 25, 1970.

§ 3.4 To a bill authorizing funds for the federal-aid highway program, an amendment permitting the Governor of a state to divert funds from the highway program to urban mass transportation projects was ruled out as not germane. 114 CONG. REC. 19926, 90th Cong. 2d Sess., July 3, 1968.

§ 3.5 To a bill modifying requirements relating to gold reserves held as backing for Federal Reserve notes and other United States currencies, an amendment to establish a strategic gold reserve and requiring deposits therein in amounts equal to any deposits of gold to the

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credit of foreign governments was held not germane. 114 CONG. REC. 3687, 90th Cong. 2d Sess., Feb. 21, 1968.

§ 3.6 To an amendment in the nature of a substitute providing in part for amelioration of procedures relating to mortgage foreclosure under the National Housing Act, an amendment providing for a moratorium on foreclosures of mortgages in economically depressed areas was held to be germane. 105 CONG. REC. 8636-42, 86th Cong. 1st Sess., May 20, 1959.

§ 3.7 To a bill establishing a cotton research program and promoting the marketing of cotton, an amendment providing for research with respect to training and utilization of displaced farm labor in the cotton industry, was ruled out as not germane. 112 CONG. REC. 4838, 89th Cong. 2d Sess., Mar. 3, 1966.

§ 3.8 To a bill authorizing a loan to the United Nations, an amendment inviting Members who support the measure to purchase United Nations bonds was ruled out as not germane. 108 CONG. REC. 19477, 87th Cong. 2d Sess., Sept. 14, 1962.

§ 3.9 To a bill providing for the admission of the state of Hawaii, an amendment to allow certain other Pacific islands either to be constituted into another state with the consent of the United States and Hawaii, or to be included as part of the state of Hawaii, was held to be germane. 105 CONG. REC. 4034, 86th Cong. 1st Sess., Mar. 12, 1959.

§ 3.10 Under the precedents, an amendment undertaking certain action is not germane to a proposal that would merely require an investigation. Accordingly, to a proposition establishing a commission to study a matter, an amendment directing an official to undertake and accomplish that matter is not germane. Thus, an amendment directing the Speaker to insure that a portion of a newly constructed Library of Congress building would be utilized for House office space until other additional space could be provided was ruled out as not germane to a proposition to improve the institutional operations of the House—including a commission to study space requirements. 120 CONG. REC. 34458, 93d Cong. 2d Sess., Oct. 8, 1974 [H. Res. 988]. But if an amendment to a proposal to study a matter merely requires the submission of proposed legislation to implement the study, it may be germane. 119 CONG. REC. 41747, 41748, 93d Cong. 1st Sess., Dec. 14, 1973. In this instance, for example, an amendment directing an agency to conduct a study of the feasibility of establishing a fuel economy standard for automobiles, an amendment requiring the submission by that agency of proposed legislation which would establish another fuel economy standard was held to be germane.

§ 3.11 To a bill providing an operating subsidy to the District of Columbia transit company to hold bus fares at 40 cents if the transit commission determined that the company were entitled to a fare increase, an amendment in the nature of a substitute revoking the bus company's franchise and providing for public ownership and operation of the bus system was held not germane. 118 CONG. REC. 16151, 16159, 92d Cong. 2d Sess., May 8, 1972.

§ 3.12 To a bill authorizing military assistance to Israel and funds for the United Nations Emergency Force in the Middle East, an amendment expressing the sense of Congress that the President conduct negotiations to obtain a peace treaty in the Middle East and the resumption of diplomatic and trade relations between Arab nations and the United States and Israel was held not germane. 119 CONG. REC. 40842, 40843, 93d Cong. 1st Sess., Dec. 11, 1973.

§ 3.13 To a portion of an omnibus agriculture bill requiring all exporters of wheat and certain other agricultural commodities to report export sales information on a weekly basis to the Secretary of Agriculture, an amendment adding a new section to require the Secretary

to report to Congress on his implementation of recommendations by the Comptroller General relating to management of the wheat export subsidy program was held germane. 119 CONG. REC. 23978, 93d Cong. 1st Sess., July 16, 1973.

§ 3.14 To an amendment in the nature of a substitute amending Rules X and XI and making conforming and miscellaneous changes in other rules to reorganize House committees, including requirements as to content and filing of committee reports, an amendment to Rule XXI (which relates to appropriation bills and reports)—to require the committee report accompanying any bill containing an appropriation to state the direct or indirect changes in law made by the bill and to prohibit such report from containing a directive regarding the appropriation not also contained in the bill—was held germane, since the issue of the content of committee reports was within the purview of the amendment in the nature of a substitute. 120 CONG. REC. 34416, 34417, 93d Cong. 2d Sess., Oct. 8, 1974 [H. Res. 988].

§ 3.15 To a proposition amending two House rules relating to the interrelation of House committees and imposing requirements for filing and content of committee reports, an amendment to another House rule, but dealing with the content of reports from the Committee on Appropriations and having as a fundamental purpose a separation of jurisdictional responsibility between that committee and legislative committees, was held germane. 120 CONG. REC. 34416, 34417, 93d Cong. 2d Sess., Oct. 8, 1974 [H. Res. 988].

§ 3.16 To a bill extending the phasing period during which nonprofit mailers in certain categories may absorb increased postal rates, and providing that all Postal Service appropriations requests be submitted directly to Congress without revision by the President, an amendment adding a new section to provide a one-cent postage rate for post cards was ruled out as not germane. 120 CONG. REC. 19817, 93d Cong. 2d Sess., June 19, 1974 [S. 411].

§ 3.17 A bill extending the phased subsidization of certain categories of nonprofit mail was held insufficiently broad in scope to admit as germane an amendment establishing a new class of mail and postal rate therefor. 120 CONG. REC. 19817, 93d Cong. 2d Sess., June 19, 1974 [S. 411].

§ 3.18 To a proposition seeking to reduce tax liabilities of individuals and businesses by providing diverse tax credits within the Internal Revenue Code, an amendment to provide rebates to recipients under retirement and survivor benefit programs was not germane. 121 CONG. REC. 8931, 94th Cong. 1st Sess., Mar. 26, 1975.

§ 3.19 To a substitute dealing with humanitarian and evacuation assistance to war victims in South Vietnam, amended to deny any such assistance to designated groups allegedly responsible for the war, an amendment stating that actions by those groups have necessitated the relief provided by the substitute was held germane. 121 CONG. REC. 11511, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 3.20 To a bill dealing with the evacuation of certain individuals, an amendment prohibiting their evacuation to any of the states of the United States without the consent of Congress, was held to relate to the evacuation process, not to immigration policy, and was therefore germane. 121 CONG. REC. 11546, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 3.21 To a joint resolution authorizing the use of American civilians to operate an early-warning system in the Sinai, an amendment providing that funds subsequently authorized to carry out the provisions of the resolution may only be used to the extent that the United States contribution to the United Nations peace-keeping forces in the Middle East is

proportionately reduced, there being no mention of the U.N. peace-keeping role or of U.S. contributions thereto in the resolution, was held to go beyond the scope of the resolution and was ruled out as not germane. 121 CONG. REC. 32430, 32431, 94th Cong. 1st Sess., Oct. 8, 1975 [H.J. Res. 683].

§ 3.22 To a section relating to congressional notification of curtailment of export of agricultural commodities, of a title of a bill reported from the Committee on International Relations extending and improving the Export Administration Act, an amendment requiring domestic payments to farmers having in storage commodities for which exports have been suspended was held not germane as beyond the scope and subject matter of the section or title. 123 CONG. REC. 11441, 95th Cong. 1st Sess., Apr. 20, 1977 [H.R. 5840].

§ 3.23 To a bill reported from the Committee on Post Office and Civil Service governing the political activities of federal employees and containing certain restrictions on federal employment relative to such activities, an amendment prohibiting any employment or compensation from whatever source for candidates for office was held not germane as unrelated to the purpose of the bill and beyond the jurisdiction of the reporting committee. 123 CONG. REC. 17711, 17712, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10].

§ 3.24 To a concurrent resolution expressing congressional concern over certain domestic policies of a foreign government and urging that government to resolve those internal problems in order to enhance better relations with the United States, amendments expressing the necessity for U.S. diplomatic initiatives as a consequence of that foreign government's policies are not germane. 124 CONG. REC. 20504, 95th Cong. 2d Sess., July 12, 1978 [S. Con. Res. 95]. In this instance, to a concurrent resolution expressing the sense of Congress that trials of Soviet dissidents are matters of concern to the American people and impose obstacles to cooperation and confidence between the United States and the Soviet Union, and urging the Soviet leadership to seek humanitarian solutions to those cases and to improve relations between the two countries, amendments urging the President to restrict negotiations at the SALT talks until the Soviet Union indicates the reliability of entering into a SALT agreement, were held not germane as unrelated to the subject matter of the resolution, which addressed only specific domestic actions by the Soviet Union and not general or specific diplomatic initiatives by the United States towards the Soviet Union.

§ 3.25 To a proposition restricting the use of the House contingent fund for committee expenses to travel in the United States and providing that no funds be used for committee expenses outside the country where local currencies are available, an amendment prohibiting the use of funds "authorized for a committee" for expenses of retiring Members was held germane as a further restriction on the availability of committee funds. 120 CONG. REC. 34465, 93d Cong. 2d Sess., Oct. 8, 1974 [H. Res. 988].

§ 3.26 To a bill authorizing loan guarantees to a private automobile manufacturer, amended to require a study of the economic impact of federal regulations on the entire automobile industry, an amendment requiring another study of that corporation's long-term involvement in the automobile industry and also the feasibility of its production of advanced alternatives to automobiles was held germane as within the scope of the bill as amended. 125 CONG. REC. p. ....., 95th Cong. 1st Sess., Dec. 18, 1979 [H.R. 5860].

§ 3.27 A point of order pursuant to clause 4 of Rule XXVIII, that a conference report on a House bill relating to boating safety contained a nongermane Senate amendment amending the Internal Revenue Code to promote reforestation, was conceded and sustained. 126

CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 25, 1980 [H.R. 4310].

§ 3.28 To a resolution reported from the Committee on Rules providing for the consideration of a joint resolution reported from the Committee on Ways and Means providing a temporary extension of the public debt limit, an amendment to make in order, any rule of the House to the contrary notwithstanding, an amendment to the joint resolution disapproving an import fee imposed by the President pursuant to the Windfall Profit Tax Act, was held not germane. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 682].

§ 3.29 To a special rule reported from the Committee on Rules providing for the consideration of a bill on one subject, an amendment waiving the germaneness rule to provide for the additional consideration of an unrelated amendment to the bill is not germane, the provisions of Rule XVI clause 7 being applicable under the precedents to amendments in the House to special rules so as to prohibit that from being accomplished indirectly which cannot under the germaneness rule be done by direct amendment to a bill. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 682].

§ 4. Committee Jurisdiction as Test

§ 4.1 Committee jurisdiction over the subject of an amendment is a relevant test to be applied in determining the germaneness of that amendment. 122 CONG. REC. 16025, 94th Cong. 2d Sess., June 1, 1976. However, committee jurisdiction is not the exclusive test of germaneness but is only one of the factors considered by the Chair when ruling on a point of order that an amendment is not germane. 119 CONG. REC. 27673–75, 93d Cong. 1st Sess., Aug. 2, 1973. Committee jurisdiction over the subject of an amendment is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committees' jurisdictions (122 CONG. REC. 1582, 94th Cong. 2d Sess., Jan. 29, 1976; 122 CONG. REC. 16024, 16025, 94th Cong. 2d Sess., June 1, 1976; 122 CONG. REC. 23168, 94th Cong. 2d Sess., July 21, 1976), or where the portion of the bill being amended also contains language, related to the amendment, not within the jurisdiction of the committee reporting the bill. 122 CONG. REC. 9253, 9254, 94th Cong. 2d Sess., Apr. 2, 1976. And the test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee. 119 CONG. REC. 27673–75, 93d Cong. 1st Sess., Aug. 2, 1973. But committee jurisdiction over the subject of an amendment is a relevant test where the pending text is entirely within one committee's jurisdiction and where the amendment falls within another committee's purview. 122 CONG. REC. 1582, 94th Cong. 2d Sess., Jan. 29, 1976. Committee jurisdiction is also a relevant test of germaneness where an authorization bill solely within one committee's jurisdiction is proposed to be amended by permanent changes of laws within another committee's jurisdiction. 124 CONG. REC. 15294, 95th Cong. 2d Sess., May 24, 1978 [H.R. 10929].

§ 4.2 Committee jurisdiction over the subject of an amendment and of the original bill to which it is offered is not the exclusive test of germaneness; the Chair relates the amendment to the bill in its perfected form. 118 CONG. REC. 28913, 92d Cong. 2d Sess., Aug. 17, 1972; 120 CONG. REC. 5306–09, 93d Cong. 2d Sess., Mar. 5, 1974 [H.R. 11793]. *Note:* The fact that the subject matter of an amendment lies within the jurisdiction of a committee other than that having jurisdiction over the

bill does not necessarily dictate the conclusion that the amendment is not germane; for committee jurisdiction is but one of the tests of germaneness and in ruling on the question, the Chair must take into consideration other factors, including the fact that the introduced bill may have been broadened or narrowed by amendment.

§ 4.3 To a bill to protect political rights, reported from the Committee on the Judiciary, an amendment to provide aid to education in communities proceeding with desegregation was ruled out as not germane, the subject of the amendment being a matter within the jurisdiction of the Committee on Education and Labor. 106 CONG. REC. 5479, 86th Cong. 2d Sess., Mar. 14, 1960.

§ 4.4 To a bill to increase the amount that the Veterans' Administration might guarantee on a home loan, an amendment requiring the Federal Reserve Banks to purchase all such loans at par from the administrator was ruled out as not germane. 114 CONG. REC. 7628, 90th Cong. 2d Sess., Mar. 26, 1968.

§ 4.5 To a proposition that retired military officers who engage in selling products to the Department of Defense within two years after their retirement should be subject to court martial, an amendment making such conduct a penal offense under a federal statute was ruled out as not germane. An amendment making it unlawful for contractors to hire retired officers within the two-year period and providing a fine for violations of this provision was likewise ruled out as not germane. 106 CONG. REC. 7680–82, 86th Cong. 2d Sess., Apr. 7, 1960.

§ 4.6 To a bill authorizing military expenditures, an amendment providing that "none of the funds authorized herein" be used except in accordance with certain congressional declarations as to our foreign policy with respect to Southeast Asia was ruled out as not germane. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 4.7 To a bill amending the Mutual Security Act of 1954, an amendment to establish a Joint Committee on Mutual Security was ruled out as not germane. 106 CONG. REC. 8536, 86th Cong. 2d Sess., Apr. 21, 1960.

§ 4.8 To a bill amending two sections of the Fair Labor Standards Act for purposes of mitigating certain effects of imports on the domestic labor market, an amendment modifying provisions of the Tariff Act of 1930 with respect to the importation of merchandise from Communist nations was ruled out as not germane. 113 CONG. REC. 27212, 90th Cong. 1st Sess., Sept. 28, 1967.

§ 4.9 An amendment relating to railroads generally, which was offered to a bill pertaining solely to urban transportation, was ruled out as not germane. 116 CONG. REC. 34191, 91st Cong. 2d Sess., Sept. 29, 1970.

§ 4.10 To a bill establishing penalties for desecration of the American flag, an amendment establishing certain restrictions upon exporting the flag was ruled out as not germane. 113 CONG. REC. 16495, 90th Cong. 1st Sess., June 20, 1967.

§ 4.11 To an Education and Labor Committee amendment in the nature of a substitute containing several titles on different aspects of higher education assistance, an amendment in the form of a new title authorizing special assistance grants to the College of the Virgin Islands and the University of Guam was held germane as within the jurisdiction of that committee. 117 CONG. REC. 39267, 92d Cong. 1st Sess., Nov. 4, 1971. *Note:* Title XII of the committee amendment in the nature of a substitute conferring land grant college status on those institutions had been stricken out on a point of order as being a subject within the jurisdiction of the Committee on Agriculture. A similar title to the one stricken remained, how-

ever, as part of the original bill. The Chair, in his decision on the germaneness of the Matsunaga amendment to the committee substitute, relied in part upon the fact that the title remained in the original bill, although the relevant test of germaneness was the relationship between the amendment and the committee substitute to which it was offered.

§ 4.12 To a committee amendment in the nature of a substitute containing a section restricting the implementation of certain school transportation plans by courts or government agencies, and amended to include sections permitting the reopening of court orders and desegregation plans, limiting court orders already entered, and terminating court ordered desegregation of unitary school systems, an amendment staying the implementation of any court order requiring new or additional student transportation was held germane. 118 CONG. REC. 28913, 92d Cong. 2d Sess., Aug. 17, 1972.

§ 4.13 To a section of an Interior and Insular Affairs Committee amendment in the nature of a substitute providing for the administration by the Secretary of the Interior, in cooperation with other federal officials, of facilities within the national recreation area established by the committee amendment, an amendment authorizing the Secretary to provide access facilities for nearby urban areas, including mass transit and water transportation was held to confer a broad discretionary authority to provide facilities beyond those contemplated in the committee substitute and within the jurisdiction of other committees of the House. 118 CONG. REC. 32154, 92d Cong. 2d Sess., Sept. 26, 1972.

§ 4.14 To that title of a bill reported from the Committee on Agriculture which contained amendments to the Watershed Protection and Flood Prevention Act relating to funding for small watershed projects, an amendment providing that such act be administered in accordance with the provisions of the Fish and Wildlife Coordination Act, an act which was not otherwise referred to in the bill and which was within the jurisdiction of another committee, was ruled out as not germane. 118 CONG. REC. 5221, 92d Cong. 2d Sess., Feb. 23, 1972.

§ 4.15 To a bill authorizing appropriations for the National Aeronautics and Space Administration, including funds for a space shuttle system, an amendment reducing that amount but also directing NASA to conduct a study of the space shuttle and to determine, in part, whether equivalent amounts for housing, education and mass transportation would be of greater benefit to the Nation, was ruled out as not germane, requiring investigation of subjects not carried in the bill and not within the jurisdiction of the Committee on Science and Astronautics. 118 CONG. REC. 13641, 92d Cong. 2d Sess., Apr. 20, 1972.

§ 4.16 An amendment changing the statement of policy contained in a bill is not in order if its effect is to fundamentally change the purpose of the bill and to emphasize a subject within the jurisdiction of another committee. 118 CONG. REC. 18207, 92d Cong. 2d Sess., May 22, 1972.

§ 4.17 To a bill reported from the Committee on Interior and Insular Affairs having as its fundamental purpose the promotion of the mining and mineral resources industry and the training of mineral engineers and scientists therefor, an amendment restating the purpose of the bill to be to assure an adequate supply of mineral engineers and scientists for the industry and for related public agencies in order to develop industry techniques consistent with environmental protection and with the health and safety of miners (a subject then within the jurisdiction of the Committee on Education and Labor) was ruled out as not germane. 118 CONG. REC. 18207, 92d Cong. 2d Sess., May 22, 1972.

§ 4.18 To a bill authorizing funds for operating expenses of the Atomic Energy Commis-

sion, an amendment in the form of a new section prohibiting the Commission from issuing or renewing a license to Columbia University to operate a nuclear reactor in New York City and revoking such licenses already issued and also conferring jurisdiction upon the Court of Claims to determine whether such revocation constitutes a taking of private property, was held to include a subject within the jurisdiction of the Committee on the Judiciary and was ruled out as not germane. 118 CONG. REC. 19931, 92d Cong. 2d Sess., June 7, 1972.

§ 4.19 An amendment having as its purpose the prevention of conflicts of interest arising from the employment by a private food enterprise of former United States government employees involved in the regulation or production of food is not a subject within the jurisdiction of the Committee on Agriculture and is not germane to a bill establishing a program of wheat research and promotion. 118 CONG. REC. 29588, 92d Cong. 2d Sess., Sept. 6, 1972.

§ 4.20 To a bill reported by the Committee on Public Works authorizing funds for highway construction and for mass transportation systems which use motor vehicles on highways, an amendment relating to urban mass transit (a subject then within the jurisdiction of the Committee on Banking and Currency) and to rapid rail transportation and assistance to the railroad industry (within the jurisdiction of the Committee on Interstate and Foreign Commerce) was ruled out as not germane. 118 CONG. REC. 34111, 34115, 92d Cong. 2d Sess., Oct. 5, 1972.

§ 4.21 To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane. 119 CONG. REC. 26240, 26241, 93d Cong. 1st Sess., Nov. 7, 1973.

§ 4.22 To an amendment in the nature of a substitute amending several acts within the jurisdiction of the Committee on Agriculture, an amendment directing the Secretary of Agriculture to establish emergency temporary work standards for agricultural workers exposed to pesticide chemicals notwithstanding the Occupational Safety and Health Act—a matter within the jurisdiction of the Committee on Education and Labor, and repealing certain work regulations promulgated under that act was ruled out as not germane, despite inclusion of a similar provision in the bill to which the amendment in the nature of a substitute had been offered. 119 CONG. REC. 24962, 24963, 93d Cong. 1st Sess., July 19, 1973.

§ 4.23 To an amendment in the nature of a substitute for a bill reported from the Committee on Interstate and Foreign Commerce to conserve energy resources by regulating the production, allocation and use of those resources, an amendment to reduce energy consumption by the federal government through the implementation of a reduced work-week for federal civilian employees was held to go beyond the scope of the bill and to contain matter within the jurisdiction of the Committee on Post Office and Civil Service, and was ruled out as not germane. 119 CONG. REC. 41756, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 4.24 Notwithstanding the general rule that to a proposition granting a broad scope of authority an amendment granting additional authority is germane, an amendment conferring additional authority upon an executive official not mentioned in the pending proposition is not germane where the subject matter of that authority is not within the jurisdiction of the committee which reported the proposition. 119 CONG. REC. 41736 et seq., 93d Cong. 1st Sess., Dec. 14, 1973.

§ 4.25 To an amendment in the nature of a substitute for a bill reported from the Committee on Interstate and Foreign Commerce granting a broad range of powers to the President and to the Federal Energy Administrator established therein to conserve energy resources, an amendment directing the Secretary of Housing and Urban Development to make loans to assist in installation of insulating material in residences was held to go beyond the scope of the bill and to be a matter within the jurisdiction of the Committee on Banking and Currency, and was ruled out as not germane. 119 CONG. REC. 41736 et seq., 93d Cong. 1st Sess., Dec. 14, 1973.

§ 4.26 To a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price control authority for all commodities under an act reported from the Committee on Banking and Currency is not germane. 119 CONG. REC. 24950, 24951, 93d Cong. 1st Sess., July 19, 1973.

§ 4.27 To a bill authorizing contributions to the United Nations Environment Fund, an amendment providing that United States Forest Service funds shall be increased by an amount equal to those contributions, to be used for reforestation in national forests, was held to go beyond the scope of the program contained in the bill and beyond the jurisdiction of the Committee on Foreign Affairs, and was ruled out as not germane. 119 CONG. REC. 15752, 15753, 93d Cong. 1st Sess., May 15, 1973.

§ 4.28 To a bill reported from the Committee on Interstate and Foreign Commerce, authorizing the promulgation of national drinking water standards to protect public health from contaminants, an amendment requiring the negotiation and enforcement of international agreements to accomplish that purpose was ruled out as not germane, since it proposed a method not closely related to that prescribed in the bill and involved a subject within the jurisdiction of another committee. 120 CONG. REC. 36393, 36394, 93d Cong. 2d Sess., Nov. 19, 1974 [H.R. 13002].

§ 4.29 To a proposition temporarily suspending certain requirements of a law, an amendment accomplishing that result by prohibiting federal assistance under another law (within the jurisdiction of a different House committee) for failure to comply with standards imposed by the amendment was held not germane. 120 CONG. REC. 12520, 12522-24, 93d Cong. 2d Sess., May 1, 1974 [H.R. 14368].

§ 4.30 To a section of a bill reported from the Committee on Agriculture providing a one-year price support for milk, an amendment expressing the sense of the Congress that the President shall impose certain tariff duties on imported dairy products was held to go beyond the purview of the pending section and to involve a matter within the jurisdiction of the Committee on Ways and Means, and was ruled out as not germane. 121 CONG. REC. 7667, 94th Cong. 1st Sess., Mar. 20, 1975 [H.R. 4296].

§ 4.31 To a bill reported from the Committee on Agriculture establishing emergency price supports for certain agricultural commodities, an amendment restricting the authority of the Secretary of Commerce under the Export Administration Act over the export of all agricultural commodities (a matter within the jurisdiction of the Committee on International Relations and covering a more general range of commodities) was ruled out as not germane. 121 CONG. REC. 7651, 94th Cong. 1st Sess., Mar. 20, 1975 [H.R. 4296].

§ 4.32 To a bill reported from the Committee on International Relations dealing with humanitarian and evacuation assistance out of South Vietnam, an amendment providing for payment of costs of immigration and settlement of evacuees in the United States was held to raise issues within the jurisdiction of the Committee on the Judiciary and was ruled

out as not germane. 121 CONG. REC. 11534, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 4.33 To a bill reported from the Committee on Ways and Means providing taxes and tax incentives to conserve energy, an amendment precluding the purchase (or leasing) of fuel-inefficient automobiles by the federal government was ruled out as not germane, as being beyond the scope of the bill and as dealing with a subject (government purchases) properly within the jurisdiction of another committee (Government Operations). 121 CONG. REC. 18816, 18817, 94th Cong. 1st Sess., June 13, 1975 [H.R. 6860].

§ 4.34 To a title of a bill reported from the Committee on Interstate and Foreign Commerce containing diverse petroleum conservation and allocation provisions, an amendment imposing quotas on the importation of petroleum products from certain countries was held to be a matter within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane. 121 CONG. REC. 28925, 94th Cong. 1st Sess., Sept. 17, 1975 [H.R. 7014].

§ 4.35 To a title of a bill reported from the Committee on Interstate and Foreign Commerce entitled "Conversion from Oil or Gas to Other Fuels," but referring only to industrial conversion from oil or gas to coal, an amendment adding a new section increasing the authorization of the Energy Research and Development Administration to promote the practical application of fusion energy (a matter within the jurisdiction of the Joint Committee on Atomic Energy and not within the scope of the title of the bill), was ruled out as not germane. 121 CONG. REC. 29335, 94th Cong. 1st Sess., Sept. 18, 1975 [H.R. 7014].

§ 4.36 To a bill creating an independent agency in the executive branch to protect consumer interests, an amendment in the form of a new section, conferring upon congressional committees with oversight responsibility for consumer interests the authority to direct that agency to intervene in administrative or judicial proceedings, was held not merely to reserve to Congress a disapproval authority over the agency but to confer new power on congressional committees, and was ruled out as beyond the jurisdiction of the Committee on Government Operations and not within the scope of the bill. 121 CONG. REC. 35373, 35374, 94th Cong. 1st Sess., Nov. 6, 1975 [H.R. 7575].

§ 4.37 Where a House bill reported from the Committee on Public Works and Transportation consisted of one title relating to grants to state and local governments for local public works constructions projects, a new title added by the Senate and contained in a conference report providing grants to state and local governments to assist them in providing public services was held not germane to the House bill as proposing a revenue-sharing program within the jurisdiction of the Committee on Government Operations and not closely related to the public works construction approach contained in the House version. 122 CONG. REC. 1582, 94th Cong. 2d Sess., Jan. 29, 1976.

§ 4.38 Where the administration of an existing law by a certain agency is within the jurisdiction of one or more committees of the House, the Chair in ruling on the germaneness of an amendment to a bill relating to that law confines his analysis to the text of the amendment and is not guided by conjecture as to other laws and administrative actions, within the jurisdiction of other committees, which might be affected by the amendment. 123 CONG. REC. 25252, 95th Cong. 1st Sess., July 27, 1977 [H.R. 7171].

§ 4.39 Although several committees of the House have jurisdiction over the Environmental Protection Agency's regulatory authorities contained in various environmental laws, an amendment to a bill reported from the Com-

mittee on Science and Technology (having jurisdiction over environmental research and development), which restricts the internal regulations of that agency relating to its research and development activities, may be germane if limited to that phase of the agency's operations. 122 CONG. REC. 12348, 94th Cong. 2d Sess., May 4, 1976 [H.R. 12704].

§ 4.40 In a conference report on a House bill, originally reported from the Committee on Public Works and Transportation, authorizing funds for state and local governments to create new public works jobs, a Senate amendment adding a new title to mandate the expenditure of already appropriated funds for public works and reclamation (as a purported disapproval of the deferral of such funds under the Impoundment Control Act) and to set a discount rate for reclamation and public works projects—matters within the respective jurisdictions of the Committees on Appropriations and Interior and Insular Affairs—was conceded to be nongermane. 123 CONG. REC. 13242, 95th Cong. 1st Sess., May 3, 1977 [H.R. 11].

§ 4.41 While the administration of an existing law by a certain executive agency may be within the jurisdiction of one committee of the House, an amendment to a bill reported from another committee directing that agency to perform a new function in connection with another law may be germane if it does not directly affect a subject outside of the jurisdiction of the committee reporting the bill. Thus, to a title of a bill reported from the Committee on Agriculture providing for benefits and administration of the food stamp program, an amendment requiring the collection from certain recipients of the money value of food stamps received, and requiring collection thereof by the Secretary of the Treasury (after consultation with the Secretary of Agriculture) under procedures not affecting the application of the Internal Revenue Code, was held germane since the performance of new duties by the Internal Revenue Service not connected with the Internal Revenue Code is not a matter solely within the jurisdiction of the Committee on Ways and Means. 123 CONG. REC. 25252, 95th Cong. 1st Sess., July 27, 1977 [H.R. 7171]. *Note:* The Chair was persuaded that the Department of the Treasury performs a variety of functions, including payments and collections, under laws and policies not within the jurisdiction of the Committee on Ways and Means. The amendment itself disavowed any intent to affect any provision of the Internal Revenue Code.

§ 4.42 To a bill reported from the Committee on International Relations providing foreign economic assistance, an amendment providing foreign and domestic economic assistance was held broader in scope and to involve matters within the jurisdiction of the Committee on Banking, Finance and Urban Affairs. 124 CONG. REC. 13499, 95th Cong. 2d Sess., May 12, 1978 [H.R. 12222].

§ 4.43 To an amendment recommended by the Committee on Ways and Means dealing only with import duties and quotas on sugar, an amendment providing that such duties and quotas shall be the exclusive method of achieving a price objective for sugar and by its terms eliminating all price support payment for sugar, a matter within the jurisdiction of the Committee on Agriculture, was ruled out as not germane. 124 CONG. REC. 34111, 95th Cong. 2d Sess., Oct. 6, 1978 [H.R. 13750].

§ 4.44 Although a proposal for a change in the tax laws is not ordinarily germane to a bill which has not been reported by the Committee on Ways and Means, a proposal for a study of impacts of possible tax law changes on a certain industry may be germane to a bill with broad and diverse provisions on the relationship between federal law and the industry in question. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 5, 1980 [H.R. 7235].

§ 4.45 To a House bill narrowly amending the Small Business Act and reported by the

Committee on Small Business, a Senate amendment adding a new title providing for the payment of attorney fees and other court expenses to parties prevailing against the United States in any court litigation and amending title 28 (within the jurisdiction of the Committee on the Judiciary) was held not germane. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [H.R. 5612].

§ 5. Fundamental Purpose of Amendment as Test

§ 5.1 The fundamental purpose of an amendment must relate to the fundamental purpose of the proposition to which it is offered. In ruling on this question, the Chair will compare the stated purpose of the bill with the purpose of the amendment. 106 CONG. REC. 5655, 86th Cong. 2d Sess., Mar. 15, 1960. To an amendment requiring registration and public disclosure by lobbyists but not regulating or prohibiting their activities, an amendment placing a ceiling on their monetary contributions to federal officials, or prohibiting lobbying within a certain distance of the Chambers of the House and Senate, is not germane. 122 CONG. REC. 33085, 94th Cong. 2d Sess., Sept. 28, 1976 [H.R. 15]. However, in this instance an amendment requiring lobbyists within a certain distance of the House and Senate Chambers to wear tags displaying their names and affiliations was construed as a further information disclosure requirement and was held germane. Another amendment, requiring the Comptroller General to refer to the Committee on Standards of Official Conduct information on contributions by lobbyists to House Members and employees for possible investigation by that committee, but not requiring an investigation and not regulating such contributions, was likewise held germane as a further disclosure requirement. And in 1978, to a bill requiring disclosure of various lobbying activities, an amendment requiring disclosure of any lobbying communication made on the floor of the House or Senate or in adjoining rooms, but not regulating such conduct, was held germane. 124 CONG. REC. 11642, 95th Cong. 2d Sess., Apr. 26, 1978 [H.R. 8494].

In determining the fundamental purpose of a bill and of an amendment offered thereto, the Chair may examine the broad scope of the bill and the stated purpose of the amendment and need not be bound by ancillary purposes that are merely suggested by the amendment. 124 CONG. REC. 32051, 95th Cong. 2d Sess., Sept. 27, 1978 [H.R. 11733]. In this instance, to an omnibus surface transportation authorization bill, including highway related projects as well as roadways, an amendment authorizing funds for construction of those portions of highway projects in a certain area that would incidentally permit completion of a related flood control project was germane.

§ 5.2 An amendment changing the statement of policy contained in a bill is not in order if its effect is to fundamentally change the purpose of the bill. 118 CONG. REC. 18207, 92d Cong. 2d Sess., May 22, 1972.

§ 5.3 To a bill relating to the minting and issuance of public currency, an amendment was held not germane where it provided for a commemorative or collector's coin intended for private circulation. An amendment requiring excess silver to be retained in the Treasury for use in a commemorative coin to be issued for the American bicentennial celebration was also ruled out as not germane. 115 CONG. REC. 30101, 91st Cong. 1st Sess., Oct. 15, 1969. In 1973, an amendment, offered to a bill relating to public currency, providing for the issuance or sale of bicentennial gold commemorative coins was ruled out as not germane. 119 CONG. REC. 29376, 29377, 93d Cong. 1st Sess., Sept. 12, 1973.

§ 5.4 To a bill eliminating the gold reserve requirements for certain United States currencies, an amendment providing that no redemption in gold be made to France until agree-

ment is reached respecting payment of France's World War I debt to the United States was ruled out as not germane. 114 CONG. REC. 3687, 90th Cong. 2d Sess., Feb. 21, 1968.

§ 5.5 To that title of a civil rights bill extending the life of the Civil Rights Commission and further delineating its duties with respect to the investigation of violations of constitutional rights, an amendment authorizing the commission to make relocation loans to Negroes who wish to emigrate from any state that practices segregation was ruled out as not germane. 110 CONG. REC. 2298, 88th Cong. 2d Sess., Feb. 6, 1964.

§ 5.6 To a bill to enforce the right to vote as guaranteed by the 15th amendment to the Constitution, an amendment to protect freedom of speech and other First Amendment rights whose abridgment might affect the exercise of voting rights, was held germane. 111 CONG. REC. 16263, 89th Cong. 1st Sess., July 9, 1965.

§ 5.7 To a bill to enforce constitutional voting rights by requiring preservation of federal election returns, an amendment to provide for court appointment of voting referees to insure protection of voters' rights was held to be germane. 106 CONG. REC. 5655, 86th Cong. 2d Sess., Mar. 15, 1960.

§ 5.8 To a bill exempting certain instances of joint operation of newspapers from the antitrust laws, an amendment was held not to be germane which sought in part to prevent single owners from publishing more than one newspaper within a normal circulation area if the newspaper "utilizes any subsidized class of U.S. mail" for delivery. 116 CONG. REC. 23174, 91st Cong. 2d Sess., July 8, 1970.

§ 5.9 To a joint resolution proposing a constitutional amendment relating to the election of the President and Vice President by popular vote rather than through the electoral college process, an amendment pertaining to the apportionment of Representatives and the size of congressional districts was ruled out as not germane. 115 CONG. REC. 25983, 91st Cong. 1st Sess., Sept. 18, 1969.

§ 5.10 An amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related. 118 CONG. REC. 9188, 9190, 92d Cong. 2d Sess., Mar. 21, 1972.

§ 5.11 To a section of a committee amendment in the nature of a substitute having as its fundamental purpose the funding of urban highway transportation systems, an amendment broadening that section to include rail transportation within its ambit is not germane. 118 CONG. REC. 34111, 34115, 92d Cong. 2d Sess., Oct. 5, 1972.

§ 5.12 To a bill providing for a program of research, education, and promotion to maintain and expand markets for wheat and wheat products for use as human foods within the United States and to improve the effectiveness of world food programs through utilization of wheat foods, such program to be administered by a Wheat Industry Council, an amendment requiring that council to study the effect of United States wheat sales on bread prices in the United States and to determine whether world wheat subsidies may be reduced was held germane. 118 CONG. REC. 29577, 29587, 92d Cong. 2d Sess., Sept. 6, 1972.

§ 5.13 For a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that additional provisions not contained in the original bill were merely incidental conditions or exceptions which were related to the fundamental purpose of the bill. 119 CONG. REC. 27673-75, 93d Cong. 1st Sess., Aug. 2, 1973. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 29, 1980 [S. 885].

§ 5.14 To a text seeking to accomplish a broad purpose by a method less detailed in its provisions, an amendment more definitive but relating to the same purpose implicit in the committee's approach was held germane. 119 CONG. REC. 27673–75, 93d Cong. 1st Sess., Aug. 2, 1973.

§ 5.15 For a bill authorizing the construction of a trans-Alaska oil-gas pipeline pursuant to procedural safeguards promulgated by the Secretary of the Interior, an amendment in the nature of a substitute containing similar procedures and including the condition that all persons participating in construction or use of the pipeline be assured rights against discrimination as set forth in the Civil Rights Act was held germane as including additional provisions which were merely incidental to the fundamental purpose of the bill. 119 CONG. REC. 27673–75, 93d Cong. 1st Sess., Aug. 2, 1973.

§ 5.16 To an amendment in the nature of a substitute seeking to allocate petroleum products in order to stimulate exploration for and production of essential energy minerals, and containing a section intended to encourage the conversion to coal as an energy source and to require the proper allocation of coal to users thereof, an amendment proposing to expand domestic coal production by waiving certain provisions of law (not within the jurisdiction of the committee which had reported the bill) which inhibit coal production was held germane. 119 CONG. REC. 41156, 41157, 93d Cong. 1st Sess., Dec. 12, 1973; and 119 CONG. REC. 41748, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 5.17 To a bill conferring broad powers on a new Community Development and Finance Corporation for the District of Columbia and narrowly affecting the powers of the District of Columbia Council to the extent that it would only be preempted from interfering with congressional approval authority over projects proposed by the corporation, an amendment limiting the authority of the council (and not the corporation) over all parking in the District of Columbia and not confined to the corporation's authority over parking and the council's relation thereto was held to go beyond the scope of the bill and was ruled out as not germane. 120 CONG. REC. 35216–19, 93d Cong. 2d Sess., Oct. 10, 1974 [H.R. 15888].

§ 5.18 To a bill reported from the Committee on International Relations authorizing funds to provide humanitarian and evacuation assistance and authorizing the use of United States troops to provide that assistance, an amendment authorizing funds for military aid to a foreign country (generally a subject within the jurisdiction of the Committee on Armed Services) to be used by that country to further the fundamental purpose of the bill was held germane and a point of order against the amendment was overruled. 121 CONG. REC. 11509, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 5.19 To a title of a bill containing several taxes and tax credits, amended to include a section imposing a civil penalty on fuel-inefficient cars but with energy conservation (of refined petroleum products) as its fundamental purpose, an amendment repealing the oil depletion tax credit (in order to increase federal revenues and to discourage petroleum production) was held not to fall within the class of energy conservation provisions in that title and was ruled out as not germane. 121 CONG. REC. 18817, 94th Cong. 1st Sess., June 13, 1975 [H.R. 6860].

§ 5.20 For a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain public lands and authorizing exploration for oil and gas on Naval Petroleum Reserve No. 4 with annual reports to Congress, an amendment in the nature of a substitute containing similar provisions and also requiring a task

force study of the subsistence, scenic, historical, recreational, fish, and wildlife values of the public lands in that naval petroleum reserve was held germane despite the inclusion of an incidental portion which, if considered separately, might not have been germane. 121 CONG. REC. 21633, 21634, 94th Cong. 1st Sess., July 8, 1975 [H.R. 49].

§ 5.21 To a title of a bill designed to enable agencies of the government to formulate policies of energy conservation, an amendment prohibiting certain uses of fuel (for school busing) by any person and imposing criminal penalties for such use was held not germane to the fundamental purpose of the title. 121 CONG. REC. 28927, 94th Cong. 1st Sess., Sept. 17, 1975 [H.R. 7014].

§ 5.22 To a bill designed to increase supplies of fossil fuels, and increase the use of domestic energy supplies other than petroleum through conversion to coal, and containing an entire title dealing with industrial conversion from oil and gas to coal, an amendment adding a new title providing government loans to assist private industry in the construction and operation of facilities for the liquefaction and gasification of coal was held germane as within the scope of the bill. 121 CONG. REC. 29338–41, 94th Cong. 1st Sess., Sept. 18, 1975 [H.R. 7014].

§ 5.23 For an amendment providing that United States Armed Forces may not be used to remove U.S. technicians placed in the Sinai region under the provisions of the joint resolution under consideration, a substitute stating that authority contained in the joint resolution does not permit introduction of U.S. troops in a manner not already permitted by existing law was held to be germane, as dealing with the same issue (use of U.S. troops) in a related but less specific manner. 121 CONG. REC. 32428, 94th Cong. 1st Sess., Oct. 8, 1975 [H.J. Res. 683].

§ 5.24 An amendment authorizing contributions to an international agency for nuclear missile inspections is not germane to a bill having as its fundamental purpose the authorization of military assistance programs to foreign nations. Thus, to such a bill, an amendment authorizing a contribution to the United Nations International Atomic Energy Agency and amending a law which provided foreign economic assistance was ruled out as not germane. 122 CONG. REC. 5226, 94th Cong. 2d Sess., Mar. 3, 1976 [H.R. 11963].

§ 5.25 To a proposition making it a federal crime to use a firearm during the commission of a felony that may be prosecuted in a federal court, an amendment making it a crime, in a state where such activity is not already felonious, to carry a firearm during the commission of a felony and providing for the trial of such offense in either a state or federal court was held to be germane. 114 CONG. REC. 22789, 90th Cong. 2d Sess., July 23, 1968.

§ 5.26 To a bill amending and extending various laws relating to higher education, an amendment imposing restrictions on preschool, elementary, and secondary education policy was held to broaden the scope of the bill and was ruled out as not germane. 122 CONG. REC. 13530, 94th Cong. 2d Sess., May 12, 1976 [H.R. 12851].

§ 5.27 To a committee amendment designed to preclude the incarceration or detention without statutory authority of U.S. citizens, an amendment intended to prohibit forcible busing of students on account of race was held not germane and was ruled out on a point of order. 117 CONG. REC. 31767, 92d Cong. 1st Sess., Sept. 14, 1971.

§ 5.28 To a proposition to delay the shipment of certain arms to Turkey pending a Presidential certification that progress has been made with respect to the refugee problem on Cyprus, an amendment thereto requiring that the President also certify that the Government

of Turkey has taken adequate measures to control the diversion of opium poppy into illicit channels was held not germane. 121 CONG. REC. 31487, 94th Cong. 1st Sess., Oct. 2, 1975 [S. 2230].

§ 5.29 To a bill designed to provide relief for victims of a situation, an amendment expressing the sense of Congress relative to the causes of that situation and including broad foreign policy declarations is not germane. 121 CONG. REC. 11508, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 5.30 To a bill extending the advisory and informational authority of the Council on Wage and Price Stability to encourage *voluntary programs* to resist inflation, an amendment authorizing the President to issue *orders and regulations* stabilizing economic transfers, including wages and prices, was held not germane as beyond the scope of the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 20, 1979 [H.R. 2283].

§ 5.31 To a bill establishing a new office within a government department, an amendment to abolish the department is not germane. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964.

§ 5.32 To a title of a bill restricting the authority of a new organizational entity to exercise control over institutions for which it is to administer funding under existing laws, an amendment curtailing the authority of that agency to provide funds to those institutions for certain reasons was held nongermane as addressing funding authority rather than legal controls. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979 [H.R. 2444]. In this instance, an amendment denying the use of funds under federal programs to teach or counsel as to abortions was ruled not germane as unrelated to the fundamental purpose of the title to restrict federal control over public education and curricula.

§ 5.33 To an amendment authorizing Law Enforcement Administration grants to states and localities for the purchase of photographic and fingerprint equipment for law enforcement purposes, an amendment including assistance for the purchase of bulletproof vests was ruled beyond the scope of the amendment and not germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 12, 1979 [H.R. 2061].

§ 6. Amendment Accomplishing Result of Bill by Different Method

§ 6.1 In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended. 116 CONG. REC. 28165, 91st Cong. 2d Sess., Aug. 11, 1970; 122 CONG. REC. 1582, 94th Cong. 2d Sess., Jan. 29, 1976 [H.R. 5247]; 122 CONG. REC. 20020, 94th Cong. 2d Sess., June 23, 1976 [S. 3201].

§ 6.2 To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane. 113 CONG. REC. 21849, 90th Cong. 1st Sess., Aug. 8, 1967; 116 CONG. REC. 28165, 91st Cong. 2d Sess., Aug. 11, 1970; 121 CONG. REC. 18695-702, 94th Cong. 1st Sess., June 12, 1975 [H.R. 6860].

§ 6.3 To an amendment seeking to accomplish a broad purpose by a method general in scope, an amendment accomplishing the same purpose by a related method more detailed in its provisions is germane. 117 CONG. REC. 37075-79, 92d Cong. 1st Sess., Oct. 20, 1971.

§ 6.4 To a proposition amending a rule of the House so as to permit recorded teller votes, a substitute amendment addressed to another

rule of the House and requiring in certain instances a roll call vote in the House on amendments rejected in the Committee of the Whole was ruled out as not germane. 116 CONG. REC. 25801, 91st Cong. 2d Sess., July 27, 1970. But an amendment which merely added language permitting a separate roll call vote in the House on any amendment rejected in Committee of the Whole by a teller vote was held germane as providing a different method for the recording of teller votes in Committee of the Whole. *Id.* at p. 25814.

§ 6.5 To a proposition regulating the conduct of a class of persons by several diverse methods, an amendment adding an additional approach to accomplish the same result may be germane. 124 CONG. REC. 32007, 95th Cong. 2d Sess., Sept. 27, 1978 [H.R. 1]. In this instance, to a bill providing for financial disclosure and regulating the ethical conduct of executive branch employees, an amendment limiting outside earned income was held germane as an additional regulation of ethical conduct related to the provisions in the bill.

§ 6.6 To an amendment in the nature of a substitute providing in part for the withholding of retired pay of military officers who engage in the selling of products to the Department of Defense within two years after their retirement, an amendment making it unlawful for contractors to hire such retired officers within the two-year period and disqualifying contractors who violate this provision from engaging in government contracts was ruled out as not germane. 106 CONG. REC. 7680, 86th Cong. 2d Sess., Apr. 7, 1960.

§ 6.7 Where a bill amending the Foreign Assistance Act of 1961 sought to provide new authorizations and declarations of policy, an amendment proposing alternatives to the several programs authorized in the bill and in the act was held to be germane. See 109 CONG. REC. 15614, 88th Cong. 1st Sess., Aug. 22, 1963.

§ 6.8 To a bill intended to limit campaign expenditures for radio and television, an amendment making any such expenditures contingent upon compliance with a limitation on newspaper and periodical expenditures was held not germane. 116 CONG. REC. 28165, 91st Cong. 2d Sess., Aug. 11, 1970.

§ 6.9 To a bill designed to aid in the control of crime through research and training, an amendment aimed at the control of crime through regulation of the sale of firearms was held not germane. 113 CONG. REC. 21849, 90th Cong. 1st Sess., Aug. 8, 1967.

§ 6.10 To a provision designed to improve the research facilities of Congress and concerned primarily with restructuring the appropriate department in the Library of Congress, an amendment creating a new Office of Technology Assessment comprised partly of personnel outside the legislative branch was ruled out as not germane. 116 CONG. REC. 32210, 91st Cong. 2d Sess., Sept. 16, 1970.

§ 6.11 To a bill including an authorization for the Ames Research Center in California for construction of a life science research laboratory, an amendment reducing that authorization and providing allocation of other sums authorized by the bill for expansion of existing life science research facilities at other locations was held to be germane. 109 CONG. REC. 13899, 88th Cong. 1st Sess., Aug. 1, 1963.

§ 6.12 To a provision fixing an expenditure limitation at a specific dollar amount for a fiscal year, an amendment increasing the limitation by an amount to be computed pursuant to a specified formula was held to be germane. 115 CONG. REC. 13271, 91st Cong. 1st Sess., May 21, 1969.

§ 6.13 To a bill having as its purpose the elimination of drug use among military personnel by providing a program for drug-dependent persons for treatment either in military facilities or in other government health facili-

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ties upon referral, an amendment prescribing an alternative procedure whereby drug-dependent persons could be discharged from the military and then involuntarily committed to a government health facility was held germane. 118 CONG. REC. 20403-06, 92d Cong. 2d Sess., June 12, 1972.

§ 6.14 During consideration of a bill providing for the settlement of land claims of Alaska natives, it was held that, to a committee amendment withdrawing all unreserved public lands in Alaska from appropriation under the public land laws, a substitute amendment to prohibit all disposition of public lands other than those involved in the settlement of native claims pending certain determinations by the Secretary of the Interior, and preparation of a comprehensive land-use plan, was germane. 117 CONG. REC. 37075-79, 92d Cong. 1st Sess., Oct. 20, 1971.

§ 6.15 To a proposition to accomplish a certain result by two alternative methods an amendment proposing to accomplish that result by a third closely related method is germane. 118 CONG. REC. 20403-06, 92d Cong. 2d Sess., June 12, 1972.

§ 6.16 To a proposition to accomplish a result through regulation by an executive branch agency, an amendment to achieve the same fundamental purpose through the use of another governmental entity is germane. 119 CONG. REC. 42618, 42619, 93d Cong. 1st Sess., Dec. 19, 1973; 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 29, 1980 [S. 885]. But where the bill establishes an independent agency within the executive branch to accomplish a particular purpose, an amendment in the nature of a substitute emphasizing the committee oversight responsibility of the legislative branch and authorizing congressional committees to order the agency to take certain actions is not germane. 121 CONG. REC. 35043, 94th Cong. 1st Sess., Nov. 5, 1975 [H.R. 7575]. Compare 121 CONG. REC. 23997, 94th Cong. 1st Sess., July 22, 1975 [H.R. 7014], where, to a proposition dealing with energy conservation and contingent on a Presidential certification that certain events had occurred, an amendment substituting a congressional certification was held germane. In 1980, to a bill granting broad powers to the Bonneville Power Administration relating to the use and conservation of electric power in the Pacific Northwest, and establishing a council to approve plans and projects relating to energy planning, commercial fisheries, and energy conservation, an amendment in the nature of a substitute creating instead a government corporation to perform similar and related duties, was held germane as accomplishing the same result as the bill by a closely related method. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 29, 1980 [S. 885].

§ 6.17 To that title of a civil rights bill authorizing the Attorney General to participate in litigation based on discrimination in public facilities, an amendment in the nature of a substitute establishing a Community Relations Service to assist in resolving disputes arising from discriminatory practices was ruled out as not germane. 110 CONG. REC. 2251, 88th Cong. 2d Sess., Feb. 6, 1964.

§ 6.18 To a bill reported from the Committee on Interstate and Foreign Commerce, authorizing the promulgation of a national drinking water standards to protect public health from contaminants, an amendment requiring the negotiation and enforcement of international agreements to accomplish that purpose was ruled out as not germane, since it proposed a method not closely related to that prescribed in the bill and involved a subject within the jurisdiction of another committee. 120 CONG. REC. 36393, 36394, 93d Cong. 2d Sess., Nov. 19, 1974 [H.R. 13002].

§ 6.19 To an amendment in the nature of a substitute intended to accomplish the conservation of energy resources by the regulation of the production, allocation and use of those

resources, an amendment in the form of a new title prohibiting the manufacture or sale of nonreturnable beverage containers was not deemed drafted to achieve the conservation of energy resources by the regulation of those resources and was ruled out as not germane. 119 CONG. REC. 41755, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 6.20 To a bill authorizing the Federal Energy Research and Development Administration to conduct a broad range of programs involving energy sources, including environmental research related to the development of energy sources, an amendment authorizing the Council on Environmental Quality to evaluate environmental effects of energy technology was held germane. 119 CONG. REC. 42618, 42619, 93d Cong. 1st Sess., Dec. 19, 1973.

§ 6.21 To a portion of a committee amendment in the nature of a substitute amending a section of existing law to authorize antirecession assistance to state governments based on state unemployment rates, an amendment amending the same section of existing law to provide a different distribution of such grants based on state and local tax efforts, but retaining unemployment rates as the criteria for such grants, was held germane. 123 CONG. REC. 14604, 95th Cong. 1st Sess., May 13, 1977 [H.R. 6810].

§ 6.22 To an amendment in the nature of a substitute for a title of a bill designed to conserve energy through the imposition of civil penalties on manufacturers of low miles-per-gallon automobiles, an amendment thereto designed to conserve energy through tax rebates to purchaser of high miles-per-gallon automobiles was ruled out as not germane. 121 CONG. REC. 18695-702, 94th Cong. 1st Sess., June 12, 1975 [H.R. 6860, the Energy Conservation and Conversion Act of 1975].

§ 6.23 A bill of several titles dealing generally with energy use and conservation and containing a title specifically dealing with energy efficiency of energy-using consumer products and requiring energy efficiency labeling of such products, was held sufficiently broad in scope to admit as germane an amendment in the form of a new title dealing with energy use in the production of certain nonenergy consuming products (beverage containers) and incorporating the labeling requirements in the bill to demonstrate the energy production requirements of such products. 121 CONG. REC. 29325, 94th Cong. 1st Sess., Sept. 18, 1975 [H.R. 7014].

§ 6.24 To a bill providing for federal financial assistance to states, to be used for constructing public school facilities, an amendment proposing financial assistance for teachers' salaries was held not to be germane. 106 CONG. REC. 11269, 86th Cong. 2d Sess., May 26, 1960.

§ 6.25 To an amendment adding teachers in the Peace Corps to those eligible for partial cancellation of certain education loans, an amendment permitting loan recipients to choose an alternative repayment plan based on a percentage of their net taxable incomes was ruled out as not germane. 110 CONG. REC. 19685, 88th Cong. 2d Sess., Aug. 14, 1964.

§ 6.26 To a bill providing loan guarantee programs for all states and subdivisions, an amendment in the nature of a substitute providing direct loans (a closely related method) and limited to New York was held germane. 121 CONG. REC. 38180, 94th Cong. 1st Sess., Dec. 2, 1975 [H.R. 10481].

§ 6.27 To a pending section containing prohibitions against six categories of activities by state educational agencies which might result in a denial of equal educational opportunities on the basis of race, an amendment providing that no state shall permit any unit of local government to exercise powers with respect to planning, zoning, or land use so as to prevent the development of low or moderate income housing, and thereby deny equal educational opportunity by perpetuating racial patterns in

housing, was ruled out as not germane. 118 CONG. REC. 28883, 92d Cong. 2d Sess., Aug. 17, 1972.

§ 6.28 To a pending amendment coupling the decontrol of oil prices to the enactment of windfall profits taxes, defining with some specificity the content of such tax legislation, and postponing the decontrol pending Presidential certification that such taxes have been enacted, an amendment thereto containing similar tax legislation but with a less precise description thereof and postponing the decontrol until the Congress by concurrent resolution declares that such a tax is in effect, was held to be within the scope of the provisions of the amendment to which offered and a germane modification thereof. 121 CONG. REC. 23997, 94th Cong. 1st Sess., July 22, 1975 [H.R. 7014].

§ 6.29 For an amendment comprehensively amending the Natural Gas Act to deregulate interstate sales of new natural gas and to regulate certain aspects of intrastate natural gas use, a substitute providing regulatory authority for both interstate and intrastate natural gas sales of large producers was held germane. 122 CONG. REC. 2390, 94th Cong. 2d Sess., Feb. 4, 1976 [H.R. 9464].

§ 7. Individual Proposition Offered as Amendment to Another Individual Proposition

§ 7.1 One individual proposition is not germane to another individual proposition. 121 CONG. REC. 14361, 94th Cong. 1st Sess., May 14, 1975 [H.R. 6755]; 121 CONG. REC. 31487, 94th Cong. 1st Sess., Oct. 2, 1975 [S. 2230]; 121 CONG. REC. 34037, 94th Cong. 1st Sess., Oct. 28, 1975 [H.R. 6227]. This rule is applied even where the two belong to the same class. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 12, 1979 [S. 595]. In this instance, to a bill providing for the disposal of tin from the national stockpile, an amendment providing for the disposal of silver from the stockpile was conceded to be nongermane.

§ 7.2 An individual proposition is not rendered germane to another individual proposition merely because they are related. Thus, to a bill amending one subsection of law dealing with one prohibited type of activity, an amendment to another subsection dealing with a related but separate prohibited type of activity is not germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [S. 869]. For a general treatment of the germaneness of amendments to bills which amend existing law, see § 28, infra.

§ 7.3 To a bill to provide financial assistance to the states for construction of public school facilities, an amendment proposing loans to assist in the construction of private schools was held not to be germane. 106 CONG. REC. 11292, 86th Cong. 2d Sess., May 26, 1960.

§ 7.4 To a bill relating to settlement of a particular railway labor dispute, an amendment concerning another dispute between a different railroad company and its employees was ruled out as not germane. 113 CONG. REC. 15930, 90th Cong. 1st Sess., June 15, 1967.

§ 7.5 To a provision relating to a certain class of prohibited activities, an amendment proposing to include another class of prohibited activities is not germane. 118 CONG. REC. 28883, 92d Cong. 2d Sess., Aug. 17, 1972.

§ 7.6 To a bill relating to the design of certain coin currency, an amendment specifying the metal content of other coin currency is not germane. 119 CONG. REC. 29377, 29378, 93d Cong. 1st Sess., Sept. 12, 1973.

§ 7.7 To a bill relating to the design of public coin currency, an amendment providing for issuance of a commemorative coin is not ger-

mane. 119 CONG. REC. 29376, 29377, 93d Cong. 1st Sess., Sept. 12, 1973.

§ 7.8 An amendment changing existing law in order to achieve one individual purpose is not germane to a proposition which does not amend that law and which seeks to accomplish another individual purpose. 119 CONG. REC. 41723-25, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 7.9 To a bill providing relief for one class, an amendment to extend the relief to another class is not germane. 121 CONG. REC. 14361, 14362, 94th Cong. 1st Sess., May 14, 1975 [H.R. 6755]. An amendment is not germane where, by deleting an exception to the definition of the class covered by the bill and by inserting new provisions, it has the effect of including another class. 123 CONG. REC. 17713, 17714, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10].

§ 8. General Amendments to Specific or Limited Propositions

§ 8.1 A specific proposition may not be amended by a proposition more general in scope. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979. Thus, an amendment (in effect in the nature of a substitute) rewriting an entire concurrent resolution on the budget covering two fiscal years is not germane to a perfecting amendment proposing certain changes in figures for one of the years covered by the resolution. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 2, 1979 [H. Con. Res. 107]. Similarly, to a bill limited in its application to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane. 113 CONG. REC. 26957, 90th Cong. 1st Sess., Sept. 27, 1967. To a proposition to appropriate or to authorize appropriations for only one year, an amendment to extend the appropriation or authorization to another year is not germane. Likewise, to an amendment in the nature of a substitute extending for one year the entitlement authorization for revenue-sharing during fiscal year 1981, an amendment extending the revenue-sharing program for three years was held broader in scope and not germane. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Nov. 13, 1980 [H.R. 7112].

§ 8.2 An individual proposition may not be amended by a proposition more general in scope, and a substitute for an amendment must be confined in scope to the subject of the amendment. 120 CONG. REC. 5448, 5449, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 8.3 To that title of a civil rights bill authorizing the Attorney General to bring actions on account of discriminatory practices in public facilities, an amendment in the nature of a substitute establishing a Community Relations Service to assist in resolving a broad range of disputes relating to discriminatory practices was ruled out as not germane. 110 CONG. REC. 2251, 88th Cong. 2d Sess., Feb. 6, 1964.

§ 8.4 To that chapter of a bill making it a federal crime to obstruct court orders relating to desegregation of public schools, an amendment to broaden the chapter by making it applicable to all court orders was ruled out as not germane. 106 CONG. REC. 6369, 86th Cong. 2d Sess., Mar. 23, 1960. And to a bill authorizing a federal agency to conduct a study of a child health assurance program, an amendment denying access to certain medical records was conceded by the sponsor to deny access to medical records which were not being utilized to conduct the study and was held not germane as applying to medical records not otherwise covered by the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 11, 1979 [H.R. 4962].

§ 8.5 To a joint resolution "continuing" appropriations for one month, an amendment placing a restriction on the total administrative budget expenditures for the fiscal year and

thus affecting funds not continued by the bill was ruled out as not germane. 113 CONG. REC. 26957, 90th Cong. 1st Sess., Sept. 27, 1967.

§ 8.6 To a bill extending those provisions that excluded "boiled peanuts" from the definition of "peanuts" under the Agricultural Adjustment Act of 1938, an amendment proposing to exclude from the act's provisions "all peanuts produced" was held not to be germane. 109 CONG. REC. 12777, 88th Cong. 1st Sess., July 17, 1963. An amendment proposing to enlarge the excluded class to "any agricultural commodity, which prior to being marketed as a foodstuff is boiled and dried," was also held not to be germane. 109 CONG. REC. 12778, 88th Cong. 1st Sess., July 17, 1963.

§ 8.7 To a substitute amendment modifying the definition of "agriculture" in the Fair Labor Standards Act of 1938 to include the processing of tobacco, an amendment adding to such definition the processing of fruit and vegetables was held to be germane. 107 CONG. REC. 4806, 87th Cong. 1st Sess., Mar. 24, 1961.

§ 8.8 To a bill providing for a program of research, education and promotion to maintain and expand markets for wheat, to be administered by a council under regulations issued by the Secretary of Agriculture, an amendment providing that no person employed by the United States Government in any capacity involving the production, consumption or regulation of food shall, for two years after separation from such government service, be employed by any private enterprise which deals in regulated food commodities was held to go beyond the scope of the bill and was ruled out as not germane. 118 CONG. REC. 29588, 92d Cong. 2d Sess., Sept. 6, 1972.

§ 8.9 To a joint resolution proposing an amendment to the Constitution prohibiting the United States or any state from denying persons 18 years of age or older the right to vote, an amendment requiring the United States and all states to treat persons 18 years and older as having reached the age of legal majority for all purposes under the law was ruled out as not germane. 117 CONG. REC. 7567, 92d Cong. 1st Sess., Mar. 23, 1971.

§ 8.10 To a bill exempting the Reserve Officers Association of the United States from paying real property taxes on a lot in the District of Columbia, a committee amendment authorizing appropriations for the District of Columbia of amounts equal to real property tax exemptions granted by acts of Congress was ruled out as not germane. 117 CONG. REC. 35774, 92d Cong. 1st Sess., Oct. 12, 1971.

§ 8.11 To a proposition imposing restrictions within a limited area of activity, an amendment seeking to regulate a broader scope of activities by a method unrelated to those contained in the original proposition is not germane. 117 CONG. REC. 43141-43, 43171, 92d Cong. 1st Sess., Nov. 29, 1971.

§ 8.12 To a proposition imposing restrictions on the use of communications media during campaigns for federal political office, an amendment directing federal agencies to regulate the availability of credit for campaign expenses, not limited to expenditures for using communications media, was held not germane. 117 CONG. REC. 43141-43, 43171, 92d Cong. 1st Sess., Nov. 29, 1971.

§ 8.13 To a proposition dealing with *official conduct* of federal employees, an amendment relating to *any criminal conduct* of those officials was held nongermane as addressing a broader category of conduct. 124 CONG. REC. 36461, 95th Cong. 2d Sess., Oct. 12, 1978. Similarly, to a title of a bill confined to financial disclosure, ethical conduct and conflicts of interest by executive branch employees, an amendment changing existing law to provide a permanent procedure for appointment of a special prosecutor to investigate and prosecute violations by former as well as current executive branch employees, of a broad range of criminal laws, including campaign law viola-

tions, obstruction of justice and perjury, and criminal offenses affecting the political interests of the President, was held not germane. 124 CONG. REC. 31977, 95th Cong. 2d Sess., Sept. 27, 1978 [H.R. 1].

§ 8.14 To a bill extending the benefits of a federal program to one class (public schools), an amendment to include a broader category of recipients of such benefits is not germane. 112 CONG. REC. 21656. 89th Cong. 2d Sess., Sept. 1, 1966. In this instance, an amendment extending the benefits of a proposed school nutrition program to all nonprofit institutions in depressed areas was ruled out as nongermane.

§ 8.15 To a Public Works Committee amendment in the nature of a substitute containing titles authorizing programs for federal-aid highway construction (including a public mass transportation study) and for highway safety, an amendment adding a new title to provide a comprehensive research and development program covering all systems of transportation throughout the United States and their interrelation, and also reorganizing agencies within the Department of Transportation under a new Development Administration to administer all transportation systems was ruled out as not germane. 118 CONG. REC. 34114, 34153, 34156, 92d Cong. 2d Sess., Oct. 5, 1972.

§ 8.16 To an amendment to achieve a national production goal for *synthetic fuels* for national defense needs by loans and grants and development of demonstration synthetic fuel plants, a substitute to require by regulation that *any fuel* sold in commerce require a certain percentage of synthetic fuels was held not germane as broader in scope. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930].

§ 8.17 To a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment temporarily suspending other requirements of all other environmental protection laws was held not germane. 119 CONG. REC. 41160, 93d Cong. 1st Sess., Dec. 12, 1973; and 119 CONG. REC. 41751, 41752, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 8.18 For an amendment prohibiting the administrator from setting ceiling prices for domestic crude oil above certain levels in the exercise of the authority transferred to him in a bill creating a new Federal Energy Administration, a substitute directing the administrator to set ceiling prices on crude oil and on petroleum products at designated levels was held to go beyond the scope of the pending amendment and was ruled out as not germane. 120 CONG. REC. 5448, 5449, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 8.19 To a section of a bill requiring an agency to maintain a central source of information on energy resources and technology and making such information available under provisions of the Freedom of Information Act, an amendment to prohibit the disclosure of proprietary information obtained by compulsory process by any federal agency was subject to the interpretation that it affected the confidentiality of information held by other agencies, and was ruled out as not germane. 121 CONG. REC. 19967, 94th Cong. 1st Sess., June 20, 1975 [H.R. 3474].

§ 8.20 To a bill authorizing emergency loans to livestock producers, an amendment changing the word "livestock" to "agricultural" was held to broaden the class of producers covered by the bill and was ruled out as not germane. 120 CONG. REC. 23333, 93d Cong. 2d Sess., July 16, 1974 [H.R. 15560].

§ 8.21 To a Senate amendment striking a provision in a general appropriation bill which precluded the use of funds therein by the Environmental Protection Agency to control air pollution by regulating parking facilities, a motion in the House to recede and concur in the Senate amendment with an amendment which temporarily prohibited the use of those

EPA funds to implement any plan requiring the review of any indirect sources of air pollution was held more comprehensive in scope and was ruled out as not germane. 120 CONG. REC. 39272, 93d Cong. 2d Sess., Dec. 12, 1974 [H.R. 16901].

§ 8.22 To a bill amending existing law to authorize foreign economic assistance to *certain qualifying nations* as recipients under that law, but not addressing foreign relations with countries not receiving such assistance, as amendment to that law to require reports on human rights violations by *all foreign countries*, not merely those receiving aid under the law, was conceded to be broader in scope and was ruled out as not germane. 124 CONG. REC. 13500, 95th Cong. 2d Sess., May 12, 1978 [H.R. 12222].

§ 8.23 To an amendment restricting the use of funds for military operations in South Vietnam, an amendment operations in South Vietnam, an amendment extending that restriction to other countries in Indochina was held more general in scope and was ruled out as not germane. 121 CONG. REC. 11508, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 8.24 To a bill dealing with the evacuation of persons, an amendment dealing with evacuation of other things is not germane. 121 CONG. REC. 11511, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 8.25 To a bill dealing with enforcement of United Nations sanctions against one country in relation to a specific trade commodity, an amendment imposing United States sanctions for violations of human rights against *all* countries for all commodities is not germane. 123 CONG. REC. 7447, 95th Cong. 1st Sess., Mar. 14, 1977 [H.R. 1746].

§ 8.26 To a bill amending the Bretton Woods Agreement Act, perfected by the Committee of the Whole to only address U.S. participation in and use of a special and limited International Monetary Fund financing facility, an amendment adding a new section to the act to impose certain policy directives on the U.S. Governor of the International Monetary Fund in relation to all IMF transactions was held not germane. 124 CONG. REC. 4452, 95th Cong. 2d Sess., Feb. 23, 1978 [H.R. 9214]. See also § 28, infra, for other examples of amendments to existing law being ruled nongermane as too general in scope.

§ 8.27 To a Senate amendment authorizing the President to order a special census in state or local government areas determined to have been significantly impacted by an influx of legal aliens within six months of a regular census, an amendment not only modifying that provision but also prohibiting the counting of all aliens (legal and illegal) in determining reapportionment of the House was held not germane as a broadening of the scope of the Senate amendment beyond the issue of a special census in those areas impacted by legal aliens. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 30, 1980 [H.J. Res. 610].

§ 9. Amendment Adding to Two or More Propositions of Same Class; Specific Amendments to General Propositions

§ 9.1 To a measure containing two or more diverse propositions within the same class, an amendment adding a third proposition on the same subject may be germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 1, 1979. Thus, to a bill bringing two new categories within the coverage of existing law an amendment to include a third category of the same class may be germane. 113 CONG. REC. 33769, 90th Cong. 1st Sess., Nov. 27, 1967; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979 [H.R. 3342], wherein, to a portion of a bill providing two categories of economic assistance to certain foreign nations, an amendment adding a further specific category of

economic assistance for those countries was held germane. Similarly, to a proposition prohibiting indirect foreign assistance to several foreign counties, an amendment including additional countries within that prohibition is germane. 124 CONG. REC. 24244, 95th Cong. 2d Sess., Aug. 3, 1978 [H.R. 12931].

§ 9.2 Where a bill defines several unlawful acts, an amendment proposing to include another unlawful act of the same class is germane. 113 CONG. REC. 22757, 90th Cong. 1st Sess., Aug. 16, 1967.

§ 9.3 To that portion of a bill containing diverse findings and purposes related to a general subject, an amendment adding another finding or purpose related to that subject is germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979 [H.R. 2444]. In this instance, to a title of a bill establishing a new Department of Education, stating a wide range of findings and educational purposes for the creation of the department, including a finding that there is a need to insure equal access to educational opportunities, an amendment adding the finding that no individual should be denied such opportunities by regulations which utilize ratios, quotas, or other numerical requirements based on race, creed, color, national origin, or sex, was held germane as adding a related finding to the diverse class of educational policies stated in the title.

§ 9.4 To a bill amending existing law concerning gun controls by extending coverage of the law to rifles, shotguns, and ammunition, and modifying the law with respect to destruction devices, an amendment adding further provisions relating to registration of firearms by the purchasers thereof was held to be an extension of a matter already carried in the bill and therefore germane. 114 CONG. REC. 22249, 90th Cong. 2d Sess., July 19, 1968.

§ 9.5 To a bill making it a criminal offense to interfere with enjoyment of certain enumerated civil rights and prohibiting interference with public officials attempting to enforce these rights without discrimination, an amendment proscribing interference with a public official, law enforcement officer, or fireman who is attempting to carry out the purposes of the bill or prevent civil disturbances, riots, or the destruction of property was held germane. 113 CONG. REC. 22757, 90th Cong. 1st Sess., Aug. 16, 1967.

§ 9.6 To a bill making unlawful a number of activities in the field of interstate consumer credit transactions, an amendment adding another activity, "loansharking," to those prohibited in the bill was held germane. 114 CONG. REC. 1605, 90th Cong. 2d Sess., Jan. 31, 1968.

§ 9.7 To a bill extending the coverage of the Flammable Fabrics Act to include wearing apparel and household furnishings, an amendment to bring children's toys within the mandate of the act was held to be germane. 113 CONG. REC. 33769, 90th Cong. 1st Sess., Nov. 27, 1967.

§ 9.8 To a bill relating to the labeling and advertising of cigarettes and requiring certain reports concerning health consequences of smoking and the effectiveness of labeling, an amendment requiring the Secretary of Agriculture to report periodically on government subsidies to growers and processors of tobacco was held germane. 115 CONG. REC. 16291, 91st Cong. 1st Sess., June 18, 1969.

§ 9.9 To an omnibus agricultural bill, containing farm programs in respect of dairy products, wool, feed grains, cotton and wheat, an amendment to add a new title to the bill relating to poultry and eggs was held to be germane. 111 CONG. REC. 21053, 89th Cong. 1st Sess., Aug. 19, 1965.

§ 9.10 An amendment may be germane which adds a category to a proposition containing several categories within the same generic class. Thus, to a section of a bill defining eligi-

ble recipients for certain aid, comprised of four diverse groups within the generic category of railroad road beds and facilities, an amendment adding two additional groups within the same generic category was held germane. 121 CONG. REC. 33377, 94th Cong. 1st Sess., Oct. 23, 1975 [H.R. 8672].

§ 9.11 To that portion of a bill containing diverse findings and purposes related to a general subject, an amendment adding another finding or purpose related to that subject is germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979 [H.R. 2444]. In this instance, to a title of a bill establishing a new Department of Education, stating a wide range of findings and educational purposes for the creation of the department, including a finding that there is a need to insure equal access to educational opportunities, an amendment adding the finding that no individual should be denied such opportunities by regulations which utilize ratios, quotas, or other numerical requirements based on race, creed, color, national origin, or sex, was held germane as adding a related finding to the diverse class of educational policies stated in the title.

§ 9.12 To a bill containing definitions of several of the terms used therein, an amendment may be germane which modifies one of the definitions and adds another (113 CONG. REC. 26878, 90th Cong. 1st Sess., Sept. 26, 1967), or which further defines other terms used in the bill (121 CONG. REC. 39427, 94th Cong. 1st Sess., Dec. 9, 1975). In one instance, to a bill promoting the development of synthetic fuels, defined as fuels and chemical feedstocks produced by the conversion of renewable and nonrenewable resources, an amendment including within the definition of such fuels methane produced from coal seams, geopressurized brine, tight sands, and devonian shale was held germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930].

§ 9.13 To that title of a military procurement authorization bill permitting, in part, the Committee on Armed Services to utilize the services and information "of any government agency," an amendment directing the Comptroller General to review defense contracts was held to be germane. 115 CONG. REC. 28454, 91st Cong. 1st Sess., Oct. 3, 1969.

§ 9.14 Where two diverse chapters of a bill containing funds for various government departments and agencies have been read, an amendment in the form of a new chapter providing funds for an additional agency is in order. 117 CONG. REC. 14437, 92d Cong. 1st Sess., May 11, 1971.

§ 9.15 To a supplemental appropriation bill containing funds for several departments and agencies, an amendment in the form of a new chapter providing funds for capital outlay for subway construction in the District of Columbia, offered at the conclusion of the reading of two chapters pertaining to the Departments of Agriculture and Defense, was held germane. 117 CONG. REC. 14437, 92d Cong. 1st Sess., May 11, 1971.

§ 9.16 To a bill containing diverse titles on the general subject of education, including provisions concerning the implementation of court orders and the use of federal funds to achieve desegregation of public schools, an amendment in the form of a new title providing a program to assist public schools in the elimination of racial segregation was held germane. 117 CONG. REC. 39323–29, 92d Cong. 1st Sess., Nov. 4, 1971.

§ 9.17 Where a bill contains several unrelated titles on a general subject, an amendment adding a further title within that general subject is germane. 117 CONG. REC. 39323–29, 92d Cong. 1st Sess., Nov. 4, 1971.

§ 9.18 To a proposition establishing an executive agency and conferring broad authority thereon, an amendment directing that agency

to conduct a study of a subject within the scope of that authority is germane. 119 CONG. REC. 41752, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 9.19 To an amendment in the nature of a substitute establishing a Federal Energy Administration and directing that agency to conduct a comprehensive study of energy conservation, an amendment directing that agency to conduct another study as to whether regulations issued under the Economic Stabilization Act were contributing to the energy shortage was held germane. 119 CONG. REC. 41752, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 9.20 To a portion of a bill directing the Administrator of Energy Research and Development to undertake research and development of the uses of energy from several enumerated or other energy sources, an amendment directing a fully funded program of research and development in "unconventional energy sources and technologies" and further delineating those energy sources to be emphasized was held germane. 119 CONG. REC. 42607, 93d Cong. 1st Sess., Dec. 19, 1973.

§ 9.21 Where a bill seeks to accomplish a general purpose by diverse methods, an amendment which adds a specific method to accomplish that result may be germane. 122 CONG. REC. 11101, 94th Cong. 2d Sess., Apr. 26, 1976 [H.R. 12838]. Similarly, to a bill authorizing a broad program of research and development, an amendment directing specific emphasis during the administration of that program is germane. 119 CONG. REC. 42607, 93d Cong. 1st Sess., Dec. 19, 1973.

§ 9.22 To a proposition conferring a broad range of authority to accomplish a particular result, an amendment granting specific authority to achieve that result is germane. 119 CONG. REC. 41160, 93d Cong. 1st Sess., Dec. 12, 1973; and 119 CONG. REC. 41732, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 9.23 To that section of an amendment in the nature of a substitute directing the President to minimize any adverse impact upon employment of actions taken under that act to conserve energy resources, an amendment authorizing grants to states for assistance to individuals unemployed as the result of administration of that act and not eligible for assistance under other unemployment compensation programs was held germane. 119 CONG. REC. 41160, 93d Cong. 1st Sess., Dec. 12, 1973.

§ 9.24 To a portion of an amendment in the nature of a substitute directing the President to require all government agencies to use economy model motor vehicles, an amendment limiting the number of "fuel inefficient" passenger motor vehicles which the government could purchase was held germane as a further delineation of the broad restriction imposed by the amendment in the nature of a substitute. 119 CONG. REC. 41722, 41723, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 9.25 To an omnibus housing bill, in part authorizing Urban Property Protection and Reinsurance and establishing a National Insurance Development Corporation, an amendment was held to be germane which sought to inaugurate a new program of urban insurance for the District of Columbia. 114 CONG. REC. 20527, 90th Cong. 2d Sess., July 10, 1968.

§ 9.26 To a proposition relating in many diverse respects to the political rights of the people of the District of Columbia, an amendment conferring upon that electorate the additional right of electing a nonvoting Delegate to the Senate was held germane. 119 CONG. REC. 33656, 33657, 93d Cong. 1st Sess., Oct. 10, 1973.

§ 9.27 To an amendment in the nature of a substitute amending several diverse acts within the jurisdiction of the Committee on Agriculture, including provisions intended to assure the availability of food commodities, an amendment to the Food Stamp Act—another

program within the jurisdiction of that committee—restricting food stamps to strikers, was held germane. 119 CONG. REC. 24957, 24958, 93d Cong. 1st Sess., July 19, 1973.

§ 9.28 To a bill temporarily amending for one year an existing law establishing price support levels for several agricultural commodities, an amendment adding another agricultural commodity to be covered by the same provisions of law for that year was held germane. 121 CONG. REC. 7667, 94th Cong. 1st Sess., Mar. 20, 1975 [H.R. 4296, emergency price supports for 1975 crops].

§ 9.29 To a proposition seeking to reduce tax liabilities of individuals and business in several diverse ways—including tax credits, an amendment adding an additional tax credit to those contained in the bill is germane. 121 CONG. REC. 8931, 94th Cong. 1st Sess., Mar. 26, 1975 [conference report on H.R. 2166, the Tax Reduction Act of 1975].

§ 9.30 A section of a bill designed to strengthen the United States and NATO relationships with Turkey and Greece in diverse ways by promoting a peaceful solution to the Cyprus dispute, by easing the embargo on arms shipments to Turkey, by requesting negotiations with Greece to determine its economic and military needs, and by providing refugee assistance to Cyprus, was held sufficiently broad in scope to admit as germane an amendment requesting negotiations with Turkey to prevent diversion of opium poppy into illicit channels. 121 CONG. REC. 31492, 94th Cong. 1st Sess., Oct. 2, 1975 [S. 2234].

§ 9.31 To a bill creating a nonregulatory Consumer Protection Agency, providing for a limited transfer of functions to the agency but authorizing the administrator to utilize the services of offices of other agencies performing similar activities, an amendment authorizing the Director of Office Management and Budget to transfer to the agency certain programs or offices was held to be germane to the bill as a whole since provisions in the bill brought the activities of those offices within the scope of the bill and all offices transferred were within the same generic class of nonregulatory intra-agency entities whose transfer would not enlarge the authority of the new agency beyond that comtemplated by the bill. 121 CONG. REC. 35376, 94th Cong. 1st Sess., Nov. 6, 1975 [H.R. 7575].

§ 9.32 A general proposition may be amended by a proposition more limited in nature if within the same class. 121 CONG. REC. 31810, 94th Cong. 1st Sess., Dec. 2, 1975 [H.R. 10481]. Thus, to that portion of a bill creating a task force to investigate the relationship between environmental pollution and cancer and heart and lung diseases, an amendment directing that task force to consider the impact of personal health habits, including cigarette smoking, on that relationship, was held germane. 122 CONG. REC. 30498, 94th Cong. 2d Sess., Sept. 15, 1976 [H.R. 10498]. Similarly, to a bill seeking to accomplish a general purpose (support of the arts and humanities) by diverse methods, an amendment in the form of a new title authorizing the employment of unemployed artists through the National Endowment for the Arts was held germane as a specific additional method related to the general purpose of the bill. 122 CONG. REC. 11098–101, 94th Cong. 2d Sess., Apr. 26, 1976 [H.R. 12838]. Likewise, for an amendment to a general appropriation bill prohibiting the use of funds therein to enforce any embargo on the export of agricultural commodities, a substitute denying the use of those funds to carry out embargos determined by the Secretary of Agriculture to have been imposed as the result of a reduction in agricultural sales to one foreign nation was held germane, involving a more specific limitation than that contained in the amendment for which offered. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 22, 1980 [H.R. 7584].

§ 9.33 To a bill amending the Bankruptcy Act to provide a judicial procedure for the adjustment of debts of public municipalities, and authorizing courts to issue certificates of indebtedness under general conditions determined by the courts to assure their marketability, an amendment defining such certificates to permit federal guarantee of principal and interest was held germane as a further definition relating to a specific power being added to those general powers already contained in the bill in order to accomplish a fundamental purpose of the bill. 121 CONG. REC. 39427, 94th Cong. 1st Sess., Dec. 9, 1975 [H.R. 10624, to revise Chapter IX of the Bankruptcy Act].

§ 9.34 To a bill authorizing military assistance to foreign nations, an amendment permitting funds authorized in the bill to be used to carry out assassinations or to influence political activities in foreign nations was held germane as a related use to which foreign military assistance could be put. 122 CONG. REC. 5234, 5235, 94th Cong. 2d Sess., Mar. 3, 1976 [H.R. 11963].

§ 9.35 To a proposition conferring broad discretionary power on an executive official, an amendment directing that official to take certain actions in the exercise of that authority is germane. Thus, to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that official to prohibit the exportation of petroleum products for use in military operations in Indochina was held germane as a delineation of the broad authority conferred by that substitute. 119 CONG. REC. 41753, 93d Cong. 1st Sess., Dec. 14, 1973. Similarly, to a section of a bill conferring wide discretionary powers upon the administrator, an amendment directing the administrator to issue preliminary summer guidelines for citizen fuel use was held germane. 120 CONG. REC. 5436, 5437, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 9.36 For an amendment to the Clean Air Act authorizing state Governors to permit variances in concentrations of two pollutants from stationary sources in two classes of areas, a substitute authorizing Governors to permit concentration increases of one of those pollutants in one such class was held germane as a more limited approach to the subject treated in the amendment. 123 CONG. REC. 16653, 95th Cong. 1st Sess., May 25, 1977 [H.R. 6161].

§ 9.37 To a bill transferring to a new department a variety of existing governmental authorities relating to energy, an amendment transferring another existing authority within the same class is germane. 123 CONG. REC. 17419, 95th Cong. 1st Sess., June 3, 1977 [H.R. 6804]. In this instance, to a bill creating a new Department of Energy and transferring to it energy functions of the federal government under existing law, an amendment adding a new title to create a public energy administration within the department and to authorize the President to transfer to the administration his oil import purchase authority under existing law was held germane.

§ 9.38 Where existing law requires a department to study and recommend changes in all laws on an annual basis to encourage energy conservation, an amendment to an annual authorization bill for that department directing it to study and recommend changes in one category of laws with funds covered by the bill was held germane as confined to the fiscal year covered by the bill and as a specific direction within the general category of duties required by existing law. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 18, 1979 [H.R. 3000].

§ 9.39 To a bill authorizing appropriations for and increased United States participation in certain international development funds, which as perfected contained titles addressing export opportunity enhancement, human

rights reporting, and refugee assistance, an amendment adding a new title to the bill directing the United States to encourage the funding institutions to promote and support energy production from renewable resources was held germane. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 6, 1980 [H.R. 3829].

§ 10. Proposition and Amendment as Affecting Different Classes

§ 10.1 To a bill dealing with relief for one class, an amendment seeking to include another class is not germane. 116 CONG. REC. 25801, 91st Cong. 2d Sess., July 27, 1970. Thus, to a bill providing financial relief for one class, agricultural producers, an amendment is not germane where it extends such relief to another class, commercial fishermen, particularly where relief to the latter class is within the jurisdiction of another committee. 124 CONG. REC. 11081, 95th Cong. 2d Sess., Apr. 24, 1978 [H.R. 11504]. See § 7, supra, for discussion of the broad principle that an individual proposition is not germane to another individual proposition.

§ 10.2 To a bill reported from the Committee on International Relations providing *foreign* economic assistance, an amendment providing *foreign and domestic* economic assistance was held broader in scope and to involve matters within the jurisdiction of the Committee on Banking, Finance and Urban Affairs. 124 CONG. REC. 13499, 95th Cong. 2d Sess., May 12, 1978 [H.R. 12222].

§ 10.3 To a bill providing salary increases for federal officers and employees, an amendment promoting salary increases for members of the "working press" and prohibiting the privilege of the press gallery to news media who do not provide such increases for their employees was ruled out as not germane. 110 CONG. REC. 5137, 88th Cong. 2d Sess., Mar. 2, 1964.

§ 10.4 To a Senate amendment providing for payment from the Senate contingent fund of certain travel expenses incurred by Senate employees, an amendment providing additional travel allowances, payable from the House contingent fund, to Members of the House was held not germane. 107 CONG. REC. 5278, 87th Cong. 1st Sess., Mar. 29, 1961.

§ 10.5 To a bill providing relief for aliens who are political refugees of a certain geographic area, an amendment broadening the coverage of the bill to persons from another geographic area who are not aliens as defined in immigration law was held not germane. 121 CONG. REC. 14361, 94th Cong. 1st Sess., May 14, 1975 [H.R. 6755, U.S. assistance to migrants and refugees].

§ 10.6 To a substitute amendment prohibiting the use of funds in a general appropriation bill for the enforcement of any regulation under the Occupational Health and Safety Act applicable to small farmers, an amendment adding at the end thereof the requirement that such funds be expended to assure full compliance under that act by congressional Members and staff was held not germane. 122 CONG. REC. 20371, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232].

§ 10.7 Where a bill contains a provision excluding from its coverage a particular class, the effect of which is to narrow the scope of the bill to another single class, an amendment proposing to strike out that exclusion from coverage, thereby broadening the scope of the bill to include a separate class, is not germane. 123 CONG. REC. 17713, 17714, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10]. In this instance, to a bill governing the political activities of a certain class of federal employees (civilian employees), an amendment broadening the scope of the bill to cover another class of federal employees (members of the uniformed services) is not germane.

§ 10.8 To a bill dealing with a certain class of federal employees (the U.S. Civil Service) an amendment to bring other classes of employees (of the Postal Service and the District of Columbia) within the scope of the bill is not germane. 124 CONG. REC. 28438, 95th Cong. 2d Sess., Sept. 7, 1978 [H.R. 11280].

§ 10.9 To a title of a bill regulating the conduct of employees of the executive branch, an amendment to regulate the conduct of persons formerly or never employed by the executive branch is not germane. 124 CONG. REC. 32007, 95th Cong. 2d Sess., Sept 27, 1978 [H.R. 1].

§ 10.10 To a bill extending benefits to a certain class of employees, an amendment to extend those benefits to an additional category of employees within that class is germane. For example, to a bill increasing the government's contibution for federal employees' health benefits and extending those benefits to certain dependents, an amendment to include Postal Service officers and employees within the coverage of the bill was held germane where the existing law being amended defined "federal employees" so as to include Postal Service employees. 118 CONG. REC. 14567, 92d Cong. 2d Sess., Apr. 27, 1972.

§ 10.11 To a bill amending a section of the Labor Management Relations Act to permit employer contributions for joint industry promotion of products within the construction industry, an amendment applicable in scope to all industries covered by the act and relating to funds established for political education was ruled out as not germane. 114 CONG. REC. 23403, 90th Cong. 2d Sess., July 25, 1968.

§ 10.12 To a bill reported from the Committee on International Relations containing a cost-of-living adjustment for foreign service retirees, an amendment containing a comparable adjustment in annuities for federal civil service employees was held not germane as beyond the scope of the bill. 122 CONG. REC. 19226, 94th Cong. 2d Sess., June 18, 1976 [H.R. 13179].

§ 10.13 Where a bill covers two or more subjects within a readily definable class, it is not in order to add additional subjects outside of that class by way of amendment. Thus, to a bill authorizing the Secretary of the Treasury to strike two types of national medals honoring the bicentennial, an amendment authorizing the minting of three types of national medals but also permitting private mints to strike state medals was held not germane. 118 CONG. REC. 2180-82, 92d Cong. 2d Sess., Feb. 2, 1972.

§ 10.14 To a bill pertaining to several functions within an identifiable class of activity, an amendment adding a function outside that class is not germane. In one instance, to a bill authorizing appropriations for the maintenance and security functions of the John F. Kennedy Center, an amendment directing the Secretary of the Interior to arrange for wrestling performances at the center was held not to come within the class of functions covered by the bill was ruled out as not germane. 119 CONG. REC. 17344, 93d Cong. 1st Sess., May 30, 1973. And where a pending amendment authorizing Law Enforcement Administration grants to states for the purchase of two types of equipment of the same class (for photography and fingerprinting), an amendment to purchase life-protecting equipment (bulletproof vests) was held not germane as related to a different class or category of equipment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 12, 1979 [H.R. 2061].

§ 10.15 To a bill to enable the Department of Health, Education, and Welfare to investigate and prosecute fraud and abuse in the medicare and medicaid health programs, an amendment to prohibit *any* federal officer or employee from disclosing any identifiable medical record absent patient approval was held not germane as exceeding the scope and subject

matter of the bill. 123 CONG. REC. 30534, 95th Cong. 1st Sess., Sept. 23, 1977 [H.R. 3].

§ 10.16 To a second concurrent resolution on the budget containing diverse provisions relating to congressional actions on the budget, an amendment dealing with a repeal of the Impoundment Control Act, thereby addressing Presidential authority to rescind or defer subject to congressional review, was held not germane as relating to actions to be taken by the executive branch. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Nov. 18, 1980 [H. Con. Res. 448].

§ 11. Amendments to Appropriation Bills

§ 11.1 To come within the rule permitting amendments of a legislative nature on general appropriation bills where such amendments retrench expenditures (the "Holman rule"), an amendment must be germane to the bill under consideration. 112 CONG. REC. 27424, 89th Cong. 2d Sess., Oct. 18, 1966; 115 CONG. REC. 13269, 91st Cong. 1st Sess., May 21, 1969. Thus, to a paragraph in a general appropriation bill containing funds for the construction of federal *civilian* prison facilities, an amendment reducing that amount but also requiring a feasibility study of turning over *military* prisons to the Justice Department was held to add nongermane legislation to that permitted to remain in the paragraph and was ruled out. 122 CONG. REC. 19279, 94th Cong. 2d Sess., June 18, 1976 [H.R. 14239]. The "Holman rule" generally, see Ch. 26 § 10, supra.

§ 11.2 While it has been held that a Senate amendment proposing legislation on a general appropriation bill may be subject to an amendment of a similar nature offered in the House, the requirement remains in such circumstances that the House amendment be germane to the Senate amendment. 116 CONG. REC. 41504, 91st Cong. 2d Sess., Dec. 15, 1970.

§ 11.3 A legislative provision in a general appropriation bill, permitted to remain pursuant to a resolution waiving points of order against the bill, may be perfected by germane amendment. 113 CONG. REC. 32887, 90th Cong. 1st Sess., Nov. 16, 1967. But such amendment may not contain additional legislation. 113 CONG. REC. 32968, 90th Cong. 1st Sess., Nov. 17, 1967.

§ 11.4 Where certain funds in a general appropriation bill are to remain available beyond the fiscal year covered by the bill, an amendment may be germane which places certain restrictions on their use, to become effective on a date that also falls after the expiration of the fiscal year. 117 CONG. REC. 41838, 92d Cong. 1st Sess., Nov. 17, 1971. In this instance, although only some of the funds were to remain available beyond the fiscal year covered by the bill, an amendment prohibiting the use of all funds in the bill for a certain purpose following a date certain which fell after the expiration of that fiscal year was held germane.

§ 11.5 To a general appropriation bill providing funds for the Department of Agriculture and including a specific allocation of funds for animal disease and pest control, an amendment was held to be germane which provided that no appropriation in the act be used for the purchase or application of chemical pesticides where such action would be prohibited by state or local law. 115 CONG. REC. 13753, 91st Cong. 1st Sess., May 26, 1969.

§ 11.6 To an appropriation bill for the Department of Defense, an amendment was held to be proper which sought to implement certain policies, already required by law to be put into effect, by providing that none of the funds appropriated by the act be used, after a certain date, to finance military operations by United States forces in Vietnam and other specified areas, subject to specified conditions. 117 CONG. REC. 41838, 92d Cong. 1st Sess., Nov. 17, 1971.

§ 11.7 To that provision in an appropriation bill prohibiting aid to one nation unless a certain condition is met, an amendment prohibiting aid to another nation until that nation takes certain actions, and referring to funds provided in other acts, was held not to be germane. 113 CONG. REC. 32968, 90th Cong. 1st Sess., Nov. 17, 1967.

§ 11.8 To a bill providing funds for foreign assistance programs, an amendment to deny use of funds therein to pay arrearages or dues of members of the United Nations was held to be germane to the subject of the bill and in order as a limitation. 108 CONG. REC. 20187, 87th Cong. 2d Sess., Sept. 20, 1962.

§ 11.9 To a bill providing for continuing appropriations pending enactment of regular appropriation bills and curtailing certain government expenditures, an amendment requiring the Bureau of the Budget to compile and report to each Member of the House the total federal expenditures in his congressional district and directing the Members to take certain steps to effect a reduction in expenditures, was ruled out as not germane. 113 CONG. REC. 29290, 90th Cong. 1st Sess., Oct. 18, 1967.

§ 11.10 To a joint resolution "continuing" appropriations for one month, an amendment placing a restriction on the total administrative budget expenditures for the fiscal year and thus affecting funds not continued by the bill was ruled out as not germane. 113 CONG. REC. 26957, 90th Cong. 1st Sess., Sept. 27, 1967.

§ 11.11 To a bill providing supplemental appropriations for certain specified departments of government, an amendment which would affect appropriations for virtually all departments and agencies of government is not germane. 112 CONG. REC. 27424, 89th Cong. 2d Sess., Oct. 18, 1966.

§ 11.12 It is not germane to a proposition appropriating funds for a single purpose to require revenue proceeds derived from certain taxes to be applied toward that purpose, by denying their applicability for any other purpose except in excess of that amount; and where the proponent of the amendment revised the amendment to require that revenue derived from certain taxes be applied to the function for which the appropriation was being made by denying their applicability to any other purpose, a point of order was also conceded and sustained. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 25, 1979 [H.J. Res. 430].

B. APPLICATION OF RULE TO PARTICULAR FORMS OF AMENDMENT OR PROPOSITION

§ 12. In General

§ 12.1 The rule of germaneness applies to amendments and not to language of the bill as introduced. Thus, the point of order will not lie that a provision in a general appropriation bill is not germane to the rest of the bill. 109 CONG. REC. 24753, 88th Cong. 1st Sess., Dec. 16, 1963. *Note:* The "Holman rule" (Rule XXI clause 2) is an exception to this general principle, since under it legislative provisions retrenching expenditures in a general appropriation bill may be permissible if "germane to the subject matter of the bill."

§ 12.2 Where matter has been stricken from a bill, an amendment that might have been germane to such matter may be ruled out as not germane to the bill. 108 CONG. REC. 13431, 87th Cong. 2d Sess., July 12, 1962.

§ 12.3 The germaneness rule applies to amendments and not to language of the bill as introduced. 109 CONG. REC. 24753, 88th Cong. 1st Sess., Dec. 16, 1963.

§ 12.4 A pro forma amendment was held to be germane to a bill which sought to repeal a

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section of existing law and which was being considered under an open rule. 111 CONG. REC. 18639, 89th Cong. 1st Sess., July 28, 1965.

§ 12.5 To a bill establishing a commission to adjust salary levels of certain classes of government employees, broadened by amendment to include legislative employees, an amendment to restrict certain political activities of employees paid from Members' clerk-hire allowances was held to be germane. 115 CONG. REC. 29966, 91st Cong. 1st Sess., Oct. 14, 1969.

§ 12.6 The precedents (5 Hinds' Precedents §§ 5834–36) which preclude the offering of a nongermane amendment to a special rule which would substitute the consideration of one proposition for another unrelated proposition, were extended to preclude the offering of an amendment to an order of business resolution which would have permitted the additional consideration of a nongermane amendment to a bill. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Res. 682]. Generally, see Ch. 21 § 21, supra.

§ 13. Amendment Offered to Particular Paragraph, Section, or Title

§ 13.1 The test of germaneness of an amendment is to the bill as amended at the point in the bill at which the amendment is offered. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [S. 869]. For this reason, an amendment may be ruled out because it is not germane to a particular part of the bill, and a similar amendment be allowed subsequently when the scope of the bill has been broadened by additional paragraphs passed in the reading. 115 CONG. REC. 28454, 91st Cong. 1st Sess., Oct. 3, 1969.

§ 13.2 An amendment that might be considered germane if offered at the end of the reading of the bill for amendment may not be germane if offered during the reading, before all the provisions of the bill are before the Committee of the Whole for consideration. 115 CONG. REC. 28442, 91st Cong. 1st Sess., Oct. 3, 1969.

§ 13.3 To an amendment proposing to add a new paragraph to a section of a bill, an amendment providing that certain procedures not be permitted "under this section" was ruled out as not germane. 116 CONG. REC. 24040, 91st Cong. 2d Sess., July 14, 1970.

§ 13.4 During consideration of that section of a legislative reorganization bill modifying a rule of the House with respect to calling committee meetings, it was held that, to an amendment to such section adding a paragraph relating to selection of temporary committee chairmen, an amendment referring to proxy voting and other practices "under this section" was not germane. 116 CONG. REC. 24040, 91st Cong. 2d Sess., July 14, 1970.

§ 13.5 The test of germaneness of an amendment to a bill being read for amendment by titles is its relationship to the title to which offered; and even where the amendment would also have been germane to a previous title of a bill which has been passed in the reading, an amendment germane to the pending title is not subject to a point of order on the grounds that it indirectly affects, or is inconsistent with, an amendment adopted to a previous title. Thus, to a diverse title of a bill (dealing with the economic regulation of railroads) being read for amendment by titles, entitled "Railroad Intercarrier Practices" but dealing also with bankruptcy and employee protection issues, an amendment addressing those issues as well as railroad rates and rate-making and including a provision requesting a study of the impact of possible tax law changes relating to railroads, was held germane (although portions of the amendment on rates indirectly affected a previous title of the bill already perfected by

amendment). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 5, 1980 [H.R. 7235].

§ 13.6 Where a bill consisted of three titles, relating respectively to postal rates, federal salaries, and the mailability of certain material, an amendment concerning the appointment of postmasters by the Postmaster General, which was offered to the title of the bill relating to federal salaries, was held not to be germane to such title. 113 CONG. REC. 28649, 90th Cong. 1st Sess., Oct. 11, 1967.

§ 13.7 During consideration of a bill establishing programs for producers of various agricultural commodities, it was held that, to the title containing miscellaneous provisions, amendments were germane which related to determination of the acreage "eligible as set aside under the various provisions of this Act," and to certain restrictions on the use of such acreage. 116 CONG. REC. 27499, 91st Cong. 2d Sess., Aug. 5, 1970.

§ 14. Amendment Adding New Section or Title to Bill

§ 14.1 *Note:* The general rule that an amendment must be germane to the portion of the bill to which offered is limited by the proposition that an amendment in the form of a new section or paragraph need not necessarily be germane to the section or paragraph immediately preceding it (8 Cannon's Precedents §§ 2932, 2935).

§ 14.2 Sometimes, an amendment which would be held not germane when offered to a particular title of a bill would be considered germane if offered as a new title. 113 CONG. REC. 28649, 90th Cong. 1st Sess., Oct. 11, 1967.

§ 14.3 An amendment may be germane at more than one place in a bill. Thus, where the first several sections of a bill pertain to one category within the subject under consideration, and the subsequent sections introduce other such categories, an amendment adding a further such category may be offered at either of two places: the point where, in the reading of the text, the sections dealing with the first category have been passed; or at the end of the text. 116 CONG. REC. 26046, 91st Cong. 2d Sess., July 28, 1970.

§ 14.4 The test of germaneness of an amendment adding a separate or new section at the end of a bill is its relationship to the bill as a whole, as perfected. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 1, 1979 [S. 1030]. The amendment need to be germane to the preceding section of the bill; it is sufficient that it is germane to the subject matter of the bill as a whole. 105 CONG. REC. 11790, 86th Cong. 1st Sess., June 24, 1959; 124 CONG. REC. 4452, 95th Cong. 2d Sess., Feb. 23, 1978 [H.R. 9214]; 124 CONG. REC. 23938, 95th Cong. 2d Sess., Aug. 2, 1978 [H.R. 12514].

§ 14.5 An amendment proposing a new section which, in effect, modified a section previously read and passed, was held to be germane to the bill and in order. 105 CONG. REC. 11790, 86th Cong. 1st Sess., June 24, 1959.

§ 14.6 To a bill providing rules for judicial interpretation of acts of Congress, an amendment qualifying a prior section of the bill by limiting the application of the rules in certain areas of federal regulation was held to be germane. 105 CONG. REC. 11799, 86th Cong. 1st Sess., June 24, 1959.

§ 14.7 To a bill establishing rules for judicial interpretation of acts of Congress, an amendment proposing a new section limiting the application of a prior section of the bill was held to be germane. 105 CONG. REC. 11790, 86th Cong. 1st Sess., June 24, 1959.

§ 14.8 Where the resolution providing for consideration of a bill makes in order a specific amendment to the bill, such amendment may be offered as a new title, and it need not

be germane to an existing title. 110 CONG. REC. 2738, 88th Cong. 2d Sess., Feb. 10, 1964.

§ 14.9 To an omnibus agricultural bill containing provisions relating to new commodity programs for feed grains and the storage of such grains, an amendment in the form of a new section providing a criminal penalty for payment or receipt of gratuities "as an inducement for . . . storage of any . . . commodity in any warehouse . . ." was held germane to the title to which the amendment was offered. 108 CONG. REC. 14186, 87th Cong. 2d Sess., July 19, 1962.

§ 14.10 An amendment in the form of a new section need not necessarily be germane to the preceding section of the bill, it being sufficient, where the bill contains diverse subjects, that the amendment relate to the bill as a whole. 120 CONG. REC. 22029, 93d Cong. 2d Sess., July 2, 1974 [H.R. 15465].

§ 14.11 The test of the germaneness of an amendment in the form of a new section to a title of a bill being read by titles is the relationship between the amendment and the pending title. 121 CONG. REC. 28927, 94th Cong. 1st Sess., Sept. 17, 1975 [H.R. 7014].

§ 14.12 An amendment adding a new title to a bill being read for amendment by titles must be germane to the titles considered up to that point. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 18, 1979 [H.R. 3000]. But the test of germaneness of an amendment adding a new title at the end of a bill is its relationship to the bill as a whole, as perfected by the Committee of the Whole. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 6, 1980 [H.R. 3829].

§ 14.13 The test of germaneness of an amendment adding a new section to a bill is the relationship between the amendment and the bill as a whole. 121 CONG. REC. 39376, 94th Cong. 1st Sess., Nov. 6, 1975 [H.R. 7575].

§ 15. Amendment Striking Portion of Text of Bill

§ 15.1 Perfecting amendments to a title in a bill may be offered while there is pending a motion to strike out the title, and are required to be germane to the text to which offered, not to the motion to strike out. Similarly, where a perfecting amendment to text is offered in the form of a new section, pending a vote on a motion to strike out the same text, the perfecting amendment must be germane to the text to which offered, not to the motion to strike out. 115 CONG. REC. 28454, 91st Cong. 1st Sess., Oct. 3, 1969.

§ 15.2 A proposal to strike out a portion of a text may be ruled out of order as not germane to the proposition involved. 106 CONG. REC. 6381, 86th Cong. 2d Sess., Mar. 23, 1960. However, an amendment simply striking out language already in a bill may not be ruled out as not germane unless the effect of such amendment would change the scope and meaning of the text. 123 CONG. REC. 17718, 17719, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10].

§ 15.3 A proposal to eliminate portions of a text, thereby extending the scope of its provisions to subjects other than those originally presented, is in violation of the rule requiring germaneness. 106 CONG. REC. 6381, 86th Cong. 2d Sess., Mar. 23, 1960. Thus, a motion to strike out a portion of the text of an amendment, thereby extending its scope to a more general subject, is not germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979 [H.R. 4580].

§ 15.4 A pro forma amendment to "strike out the last word" is germane. 111 CONG. REC. 18639, 89th Cong. 1st Sess., July 28, 1965.

§ 16. Substitute Amendment; Amendment in Nature of Substitute; Amendment to Amendment

§16.1 A substitute must be germane to the amendment for which it is offered. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930]. Thus, to an amendment modifying a rule of the House to provide for selection of an acting committee chairman during the disability of the permanent chairman, a substitute amendment was held not to be germane which sought to amend a different rule of the House and to modify methods of selecting the committee chairmen and vice chairmen at the commencement of a Congress. 116 CONG. REC. 24037, 91st Cong. 2d Sess., July 14, 1970.

§ 16.2 An amendment to a substitute is not required to bear the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject of the substitute. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 1, 1979 [S. 1030].

§ 16.3 To a bill consisting of two sections, an amendment striking out all after the enacting clause and inserting the language of the second and final section was held to be germane. 105 CONG. REC. 11794, 86th Cong. 1st Sess., June 24, 1959.

§ 16.4 To a perfecting amendment to a concurrent resolution on the budget, addressing only aggregates and functional categories for fiscal year 1980, an amendment in the nature of a substitute (for the entire resolution) which revised aggregates and functions for the prior fiscal year as well as for 1980, was considered by the Chair to be nongermane and not in the form of a proper substitute for the perfecting amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 9, 1979 [H. Con. Res. 107].

§ 16.5 By unanimous consent, the House agreed to consider a private Senate bill reported from the Committee on the Judiciary with a nongermane amendment in the nature of a substitute converting it into a public bill. 124 CONG. REC. 38217, 95th Cong. 2d Sess., Oct. 14, 1978 [S. 2247]. *Note:* The bill should have been referred to the Private Calendar when reported; such bills should not be put on the Union Calendar because, if consideration is granted by unanimous consent, a germaneness point of order then lies against the committee amendment.

§ 16.6 An individual proposition may not be amended by a proposition more general in scope, and a substitute for an amendment must be confined in scope to the subject of the amendment. 120 CONG. REC. 5448, 5449, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 16.7 A substitute amendment must be germane to the amendment for which offered and must relate to the same portion of the bill being amended by the amendment. 121 CONG. REC. 32428, 94th Cong. 1st Sess., Oct. 8, 1975 [H.J. Res. 683, to implement the U.S. proposal for the early-warning system in the Sinai]. However, for an amendment changing certain language in a pending section, a substitute changing that text and also additional language in the section may be germane if it has the effect of dealing with the same subject in a related and more limited way. 123 CONG. REC. 16648, 16652, 16653, 95th Cong. 1st Sess., May 25, 1977 [H.R. 6161]. In this instance, for an amendment to the Clean Air Act authorizing state Governors to permit variances in concentrations of two pollutants from stationary sources in two classes of areas, a substitute authorizing Governors to permit concentration increases of one of those pollutants in one class of areas was held germane as a more limited approach to the subject treated in the amendment.

§ 16.8 The test of the germaneness of a substitute amendment is its relationship to the amendment for which offered and not its relationship to the pending bill. Thus, for an amendment establishing a termination date for the Federal Energy Administration, a substitute not dealing with the date of termination but providing instead a reorganization plan for that agency was ruled out as not germane. 122 CONG. REC. 16056, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169]. See also 123 CONG. REC. 20284, 20287, 95th Cong. 1st Sess., June 22, 1977 [H.R. 7797], where, to an amendment to add a word to a section of a bill (with the effect of prohibiting indirect as well as direct aid to certain countries), a substitute to add another word in a different portion of the section (with the effect of adding another country to which direct aid was prohibited) was held not germane. Likewise, to an amendment requiring that certain merchant marine vessels be constructed of steel produced in the United States, a substitute amending another portion of the bill to require all materials used in such construction to be produced in the United States, unless certain findings were made, was held not germane as beyond the scope of the amendment to which offered. 123 CONG. REC. 34218, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 1037].

§ 16.9 For an amendment dealing with the role of an agency in regulating commercial diving activities by promulgation of interim and final standards, a substitute relating only to the role of that agency in issuing interim regulations was held in order as germane. 124 CONG. REC. 1818, 95th Cong. 2d Sess., Feb. 1, 1978 [H.R. 1614].

§ 17. Committee Amendment

§ 17.1 A committee amendment, whether or not in the nature of a substitute, should be germane to the bill as introduced. Of course, a resolution providing for consideration of the bill with the committee amendment may waive points of order. 113 CONG. REC. 28406, 90th Cong. 1st Sess., Oct. 10, 1967.

§ 18. Instructions in Motion to Recommit

§ 18.1 It is not in order to propose, as part of a motion to recommit, any proposition which would not be germane if proposed as an amendment to the bill. 113 CONG. REC. 5155, 90th Cong. 1st Sess., Mar. 2, 1967. Instructions contained in a motion to recommit must be germane to the subject matter of the bill even though the instructions do not propose a direct amendment thereto. Thus, a motion to recommit a joint resolution, proposing a constitutional amendment for representation of the District of Columbia in Congress, with instructions that the Committee on the Judiciary consider a resolution retroceding populated portions of the District to Maryland, was held not germane to the joint resolution. 124 CONG. REC. 5272, 95th Cong. 2d Sess., Mar. 2, 1978 [H.J. Res. 554]. *Note:* Instructions in this form, since not proposing an amendment, do not technically fall within Rule XVI clause 7, prohibiting nongermane *amendments.* But the rule applies to prohibit instructions directing a committee to study or consider a nongermane approach, or directing the committee not to report back to the House until an unrelated contingency occurs. For another precedent indicating that instructions included in a motion to commit or recommit must be germane to the pending proposition, see 124 CONG. REC. 20500 et seq., 95th Cong. 2d Sess., July 12, 1978 [S. Con. Res. 95].

§ 18.2 A point of order against a motion to recommit with instructions has been entertained prior to completion of the reading of such motion where the matter contained in the instructions had been ruled out as not germane when offered as an amendment in the Commit-

tee of the Whole. 113 CONG. REC. 5155, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 18.3 Where a motion to recommit with instructions is ruled out on a point of order because containing matter not germane to the bill, another motion to recommit may be offered. 113 CONG. REC. 5155, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 18.4 The Chair does not rule on hypothetical questions, and therefore declines to rule in advance as to the germaneness of instructions accompanying a motion to recommit. 109 CONG. REC. 25249, 88th Cong. 1st Sess., Dec. 19, 1963.

§ 18.5 During consideration of a bill authorizing military expenditures, a motion to recommit with instructions was ruled out on a point of order because containing provisions seeking to prescribe foreign policy objectives. 113 CONG. REC. 5155, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 18.6 To a bill prescribing the amount and extent of deposit insurance coverage for various savings institutions, an amendment to a motion to recommit limiting the bill's extent of insurance coverage to time deposits and permitting coverage in excess of that limitation upon the pledging of sufficient collateral was held germane. 120 CONG. REC. 2079-81, 93d Cong. 2d Sess., Feb. 5, 1974 [H.R. 11221].

§ 19. Amendment Proposing Permanent Legislation Offered to Temporary Legislation

§ 19.1 To a bill proposing a temporary change in law, an amendment making permanent changes in that law is not germane. 119 CONG. REC. 36240, 36241, 93d Cong. 1st Sess., Nov. 7, 1973.

§ 19.2 To a bill extending the time limit for negotiation of labor disputes under the Railway Labor Act for purposes of permitting additional time for negotiation of a particular labor dispute, an amendment providing permanent procedures for the settlement of all emergency labor disputes by amendment of the Railway Labor Act was ruled out as not germane. See 113 CONG. REC. 15912, 90th Cong. 1st Sess., June 15, 1967.

§ 19.3 To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane. 119 CONG. REC. 36240, 36241, 93d Cong. 1st Sess., Nov. 7, 1973.

§ 19.4 To a proposition authorizing appropriations for one fiscal year, an amendment making permanent changes in law is not germane. 124 CONG. REC. 15294, 95th Cong. 2d Sess., May 24, 1978 [H.R. 10929]. However, the activity funded need not be such that it can necessarily be completed within the authorization year. Thus, to a bill authorizing appropriations for one fiscal year for a department with ongoing activities, an amendment directing that funds be used to perform a specific activity which may not be completed within the fiscal year is nevertheless germane, if limited to the use of those funds authorized by the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 18, 1979 [H.R. 3000]. But while an amendment to an annual authorization bill, requiring a study to be made with a portion of the authorized funds, may be germane to the bill, a permanent direction to the agency or department in question to issue regulations based on such study is not germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 12, 1979 [H.R. 3000].

§ 19.5 An amendment making permanent changes in the law relating to the organization of an agency is not germane to a title of a bill only authorizing annual appropriations for such agency for one fiscal year. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 29, 1979 [H.R. 2608]. Similarly, to that title of an annual authorization bill for funds for an agency, an amendment requiring the issuance of regulations, pursuant to authority delegated by the President under permanent law, to control the price and allocation of oil, and making such regulations subject to congressional review under procedures changing the rules of the House, was ruled out as not germane because it made a permanent change in law and in the rules of the House. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 12, 1979 [H.R. 3000].

C. HOUSE-SENATE RELATIONS

§ 20. Senate Amendments to House Bills and Amendments; Conference Agreements

§ 20.1 *Note:* Rules in effect in the 93d Congress permitted any Member to demand a separate vote on any motion to dispose of any Senate amendment which would be subject to a point of order under the germaneness rule and permitted a separate vote in the House on any nongermane Senate amendment or modification thereof in a conference agreement. Rule XX clause 1, *House Rules and Manual* § 827 (1973); Rule XXVIII clause 4, *House Rules and Manual* § 913b (1973). If as a result of such a vote any such Senate amendment was rejected, the conference agreement as a whole was considered rejected.

By changes adopted in the second session of the 93d Congress (see H. Res. 998, 93d Cong. 2d Sess.), the procedure permitting separate debate and votes on nongermane Senate amendments was extended to nongermane matter that (1) originally appeared in a Senate bill, (2) was not included in the House-passed version of that bill, and (3) appeared again in the conference report. The test for identifying such matter is whether it would have been ruled nongermane if offered in the House as an amendment to the House-passed version.

Each such matter contained in a conference report is subject to a point of order that it is not germane. If the Speaker sustains the point of order, Members are permitted to offer a privileged motion to reject the nongermane matter specified in the point of order. The motion is decided by majority vote after 40 minutes of debate, equally divided between those in favor and those opposed to the motion.

Furthermore, the procedure for dealing with nongermane Senate amendments was extended to permit separate debate and votes on nongermane matter in Senate amendments reported in disagreement by a conference committee or pending before the House, the stage of disagreement having been reached. The provision relates to motions to recede and concur in a Senate amendment, with or without an amendment.

On a motion to recede and concur, the rule permits points of order against nongermane matter in the Senate amendment, provided such points are raised immediately after the motion is offered and before debate begins. Each sustained point of order may be followed by a privileged motion to reject, 40 minutes of debate, and a vote.

In the case of a motion to recede and concur in the Senate amendment with an amendment, it is in order, immediately after the motion is offered and before debate begins, to raise the same kind of points of order. However, these apply to the version of the amendment as it would appear if the

motion were adopted. That is, the entity against which points of order can be raised is the proposed amended version of the Senate amendment. Copies of this version must be available on the floor when the motion to recede and concur with an amendment is offered.

As a result of another change in the rules, all procedures relating to nongermane Senate amendments are now consolidated in a single rule (Rule XXVIII clause 5, including matter transferred from Rule XX clause 1 relating to the procedure concerning disposition of Senate nongermane amendments).

Prior to the adoption of the rules described above, it was held that a Senate amendment to a House bill was not subject, in the House, to the point of order that it was not germane to the House bill. See 113 CONG. REC. 34032, 90th Cong. 1st Sess., Nov. 28, 1967, especially remarks of Mr. Jones and Mr. Colmer, for discussion of efforts to modify this principle.

It had also been held, and is still true, that, when a Senate amendment reported in disagreement by conferees is under consideration, a proposal to amend must be germane to the Senate amendment. 107 CONG. REC. 5275, 5277, 87th Cong. 1st Sess., Mar. 29, 1961.

For an instance in which the House, by unanimous consent, concurred in a nongermane Senate amendment to House amendments to a Senate bill, see 116 CONG. REC. 12874, 91st Cong. 2d Sess., Apr. 23, 1970. Under consideration was S. 3253 (Public Works), to name certain buildings in Chicago after Everett McKinley Dirksen (Ill.), with a Senate amendment authorizing emergency payments to "impacted area" educational agencies.

The House has also, by unanimous consent, agreed to a nongermane Senate amendment to a House private bill. 117 CONG. REC. 45872, 92d Cong. 1st Sess., Dec. 9, 1971.

To a House bill continuing the operations of an executive department for one year, a Senate amendment requiring other executive agencies, as well as that department, to submit certain information to congressional committees was held to go beyond the scope of the House bill and not to be germane. 119 CONG. REC. 29243, 29244, 93d Cong. 1st Sess., Sept. 11, 1973.

Where a House bill authorized appropriations to continue the operations of the Department of State for one year, and a portion of the Senate amendment in the nature of a substitute therefor prohibited the use of all funds available to the executive branch for implementing certain military base agreements with foreign nations unless submitted to the Senate for approval, a modification of that matter in the Senate amendment included in a conference report was conceded to be not germane to the House bill, thereby making in order a motion to reject that portion of the conference report. 119 CONG. REC. 29243-46, 93d Cong. 1st Sess., Sept. 11, 1973.

To a House bill continuing the operations of an executive department for one year, a portion of a Senate amendment prohibiting the availability of any funds appropriated for foreign military base agreements—including funds authorized by other acts—absent congressional approval was held not germane as going beyond the scope of the House bill. 119 CONG. REC. 29243-46, 93d Cong. 1st Sess., Sept. 11, 1973.

§ 20.2 Pursuant to Rule XXVIII clause 5(b), a Member may make a point of order against a portion of a motion to recede and concur in a Senate amendment (reported from conference in disagreement) with a further amendment, on the ground that that portion of the Senate amendment contained in the motion was not germane to the House-passed measure. If that point of order is sustained, it is in order to offer a motion rejecting that portion of the motion to recede and concur. 120 CONG. REC. 26082 et seq., 93d Cong. 2d Sess., July 31, 1974 [H.R. 8217]. However, clause 5(b) is not applicable to a provision contained in a motion

to recede and concur with an amendment which was not contained in any form in the Senate version and which is not therefore a modification of the Senate provision, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under Rule XVI clause 7. 124 CONG. REC. 33506, 95th Cong. 2d Sess., Oct. 4, 1978 [H.R. 7483].

§ 20.3 To a bill exempting from tariff duty certain equipment and repairs for vessels operated by the United States, a modified section of a Senate amendment thereto extending benefits under the unemployment compensation program was held not germane. 120 CONG. REC. 26082 et seq., 93d Cong. 2d Sess., July 31, 1974 [H.R. 8217].

§ 20.4 To a House bill requiring that a percentage of United States oil imports be carried on U.S. flag vessels, a modified portion of a Senate amendment contained in a conference report dealing with the construction of vessels in either domestic or foreign commerce to meet certain anti-pollution requirements was held not germane. 120 CONG. REC. 35181 et seq., 93d Cong. 2d Sess., Oct. 10, 1974 [conference report on H.R. 8193].

§ 20.5 To a bill imposing vessel cargo preference rules for the importation of certain products in foreign commerce, a Senate amendment relating to construction of vessels used in foreign and domestic commerce was not germane. 120 CONG. REC. 35181 et seq., 93d Cong. 2d Sess., Oct. 10, 1974.

§ 20.6 Pursuant to Rule XXVIII clause 4, where the Speaker sustains a point of order that a portion of a conference report containing a Senate amendment is not germane to the House bill, a motion to reject that portion of the conference report is in order and is subject to 40 minutes of debate. 120 CONG. REC. 35181 et seq., 93d Cong. 2d Sess., Oct. 10, 1974; 124 CONG. REC. 36461, 95th Cong. 2d Sess., Oct. 12, 1978 [S. 555]; 124 CONG. REC. 38559, 95th Cong. 2d Sess., Oct. 14, 1978 [S. 2570].

§ 20.7 To a House amendment in the nature of a substitute for a Senate joint resolution, authorizing the President to call a White House conference on library and information services, a portion of a Senate amendment contained in the conference report which provided that the prohibition against sex discrimination contained in title IX of the Education Amendments of 1972 shall not apply to college social fraternities and sororities and to certain voluntary youth service organizations was held not germane, thereby permitting a motion under Rule XXVIII clause 4 to reject that portion of the conference report. 120 CONG. REC. 41389, 41392, 93d Cong. 2d Sess., Dec. 19, 1974 [conference report on S.J. Res. 40].

§ 20.8 The test of the germaneness of a portion of a Senate amendment in the nature of a substitute in the form of a new section to a House bill is the relationship of that section to the subject of the House bill as a whole. 121 CONG. REC. 8931, 94th Cong. 1st Sess., Mar. 26, 1975 [conference report on H.R. 2166, the Tax Reduction Act of 1975].

§ 20.9 Instance where a point of order against nongermane Senate matter contained in a conference report was sustained but no motion was made under Rule XXVIII clause 4 to reject that matter. 121 CONG. REC. 8933, 94th Cong. 1st Sess., Mar. 26, 1975.

§ 20.10 To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide certain individual and business tax credits, a new section of a Senate amendment in the nature of a substitute contained in a conference report which dealt with earnings and profits of controlled foreign corporations, and which included limitations on the use of foreign tax credits from foreign oil-related income, was held germane.

121 CONG. REC. 8933, 94th Cong. 1st Sess., Mar. 26, 1975.

§ 20.11 To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment (contained in a conference report) which added a new section relating to tax credits for new home purchases and which amended a portion of the law amended by the House bill was held germane. 121 CONG. REC. 8934, 94th Cong. 1st Sess., Mar. 26, 1975.

§ 20.12 To a House bill containing several diverse amendments to the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment in the nature of a substitute (contained in a conference report) which authorized appropriations for special payments to social security recipients was not related to tax benefit provisions in the Internal Revenue Code and was ruled out as not germane. 121 CONG. REC. 8931, 94th Cong. 1st Sess., Mar. 26, 1975.

§ 20.13 To a House bill amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment in the nature of a substitute (contained in a conference report) providing certain unemployment compensation benefits—a matter not within the class of tax benefits contained in the House bill—was conceded to be not germane. 121 CONG. REC. 8933, 94th Cong. 1st Sess., Mar. 26, 1975.

§ 20.14 To a title of a House-passed bill, reported from the Committee on Interstate and Foreign Commerce and containing a program to improve automotive fuel efficiency by imposing fuel economy standards upon manufacturers, a modified portion of a Senate amendment in the nature of a substitute (contained in a conference report) providing loan guarantees for automotive research and development (a matter within the jurisdiction of the Committee on Science and Technology) was conceded to be nongermane, and a motion was agreed to pursuant to Rule XXVIII clause 4 rejecting that portion of the conference report. 121 CONG. REC. 40677, 94th Cong. 1st Sess., Dec. 15, 1975 [conference report on S. 622, the Energy Policy and Conservation Act].

§ 20.15 A Senate provision contained in a conference report proposing the establishment of programs to encourage the formation of joint labor-management committees was held not germane to the House-passed bill, which amended the Comprehensive Employment and Training Act relative to improved employment and training services but did not address labor-management relations. 124 CONG. REC. 38559, 95th Cong. 2d Sess., Oct. 14, 1978 [S. 2570].

§ 21. — Amendment to Senate Amendment

§ 21.1 Where a motion is offered to concur in a Senate amendment with an amendment, the proposed amendment must be germane to the Senate amendment. 109 CONG. REC. 8506, 88th Cong. 1st Sess., May 14, 1963; 124 CONG. REC. 4073, 95th Cong. 2d Sess., Feb. 22, 1978 [H.R. 9375]. The rule of germaneness also applies to motions to recede and concur in a Senate amendment with an amendment. 117 CONG. REC. 28053, 92d Cong. 1st Sess., July 29, 1971.

§ 21.2 A Senate amendment proposing legislation on a general appropriation bill is subject to an amendment of a similar character in the House, but the requirement remains that the House amendment be germane to the Senate amendment. 116 CONG. REC. 41504, 91st Cong. 2d Sess., Dec. 15, 1970. And where such a Senate amendment is reported back from conference in disagreement, and a motion to concur in the Senate amendment with an amendment is offered, the proposed amendment is subject to the rule of germane-

ness. 109 CONG. REC. 8506, 88th Cong. 1st Sess., May 14, 1963.

§ 21.3 Where, in the consideration of a Senate bill, a motion to concur in Senate amendments to a House amendment to the bill is rejected, the Senate amendments are open to germane amendments. 113 CONG. REC. 19033, 90th Cong. 1st Sess., July 17, 1967.

§ 21.4 When considering a Senate amendment reported in disagreement by conferees, a proposal to amend must be germane to the Senate amendment. 107 CONG. REC. 5275, 5277, 87th Cong. 1st Sess., Mar. 29, 1961; 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 30, 1980.

§ 21.5 Where a Senate amendment to a general appropriation bill sought, in part, to prohibit the use of specified funds as compensation for certain services of former employees of the Philippine War Damage Commission performed in connection with payment of Philippine war damage claims, an amendment enlarging the class of persons ineligible for such compensation was ruled out as not germane. 109 CONG. REC. 8505, 88th Cong. 1st Sess., May 14, 1963. To a Senate amendment prohibiting use of funds in a general appropriation bill for only one basing mode for the MX missile, a motion in the House to recede and concur with an amendment adding to that prohibition an authorization of appropriations for research and development of another weapons system was held not germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 12, 1979 [H.R. 5359].

§ 21.6 To a Senate amendment providing for payment, from the Senate contingent fund, of certain additional travel expenses incurred by Senate employees, an amendment providing additional travel allowances to Members of the House from the House contingent fund was held not germane. 107 CONG. REC. 5275, 5277, 87th Cong. 1st Sess., Mar. 29, 1961.

§ 21.7 To a Senate amendment appropriating funds for "termination of the civil supersonic aircraft", a motion to recede and concur with an amendment appropriating the same amount under the heading "termination," for "payment of the airlines' contribution toward development of the civil supersonic aircraft, to remain available until expended" was held to accomplish the same purpose and to be germane. 117 CONG. REC. 28053, 92d Cong. 1st Sess., July 29, 1971.

§ 21.8 The test of the germaneness of an amendment offered to a motion to concur in a Senate amendment with an amendment is the relationship between the offered amendment and the motion, and not between that amendment and the Senate amendment to which the motion has been offered. And where the previous question is rejected on a motion to concur in a Senate amendment to a House amendment with a further amendment, any amendment offered to the pending motion must be germane to the amendment contained in the motion. 119 CONG. REC. 21821 et seq., 93d Cong. 1st Sess., Aug. 3, 1973.

§ 21.9 The test of germaneness of an amendment in the nature of a substitute to a Senate amendment (proposed in a motion to concur therein with an amendment) is the relationship between the proposed amendment in its entirety and the Senate amendment (and not the relationship between any one provision of the amendment and any one provision of the Senate amendment). 124 CONG. REC. 33506, 95th Cong. 2d Sess., Oct. 4, 1978 [H.R. 7483]. In this instance, to a Senate amendment to a House bill containing diverse provisions relating to the organization and administration of the federal courts, including appointment of additional district and circuit judges, an amendment in the nature of a substitute containing comparable provisions and in addition permitting courts of appeals of a certain size to establish administrative units, was held germane to the Senate amendment as a whole.

§ 21.10 To a Senate amendment striking a provision in a general appropriation bill which precluded the use of funds therein by the Environmental Protection Agency to control air pollution by regulating parking facilities, a motion in the House to recede and concur in the Senate amendment with an amendment which temporarily prohibited the use of those EPA funds to implement any plan requiring the review of any indirect sources of air pollution was held more comprehensive in scope and was ruled out as not germane. 120 CONG. REC. 39272, 39273, 93d Cong. 2d Sess., Dec. 12, 1974 [H.R. 16901].

§ 21.11 Where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken by the Senate amendment. 120 CONG. REC. 39272, 39273, 93d Cong. 2d Sess., Dec. 12, 1974 [H.R. 16901].

§ 21.12 In response to a parliamentary inquiry, the Chairman indicated that if the House agreed to a unanimous-consent request to concur with an amendment in a nongermane Senate amendment in the nature of a substitute for a House bill, it would not then be in order to request a division of the question on (or make a point of order against) the nongermane portions of the amendment. 121 CONG. REC. 20980, 94th Cong. 1st Sess., June 26, 1975 [H.R. 5398]. *Note:* Under Rule XXVIII clause 5(b)(1)(A)(ii), a point of order may be made against nongermane portions of a motion to concur in nongermane portions of a Senate amendment with an amendment only after the stage of disagreement has been reached, and so even a unanimous-consent request to consider the Senate amendment in the House, followed by a subsequent motion to concur with an amendment, would not have made applicable the provisions of that rule in this instance since the stage of disagreement had not been reached. It would have been in order by unanimous consent to permit consideration of the Senate amendment in the House with the provisions of Rule XXVIII clause 5 being applicable during such initial consideration of the Senate amendment(s).

§ 21.13 To a Senate amendment reported from conference in disagreement on the energy and water appropriations bill, appropriating funds for a Senate office building extension, providing a funding ceiling on such extension, providing for the transfer of personnel and equipment to such extension upon completion and providing for demolition estimates for buildings currently used for Senate office space, an amendment, proposed in a motion to recede and concur with an amendment, making a reduced appropriation for construction of such extension with a reduced funding ceiling, and providing that such extension upon completion meet all personnel needs currently satisfied by the buildings then in use for Senate office space, was held germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 2, 1979 [H.R. 4388].

D. AMENDMENTS IMPOSING QUALIFICATIONS OR RESTRICTIONS

§ 22. In General; Amendments Providing for Exceptions or Exemptions

§ 22.1 Where a bill continues the authority of an official to set maximum interest rates on loans, an amendment placing a limit on such authority is germane. 115 CONG. REC. 27351, 91st Cong. 1st Sess., Sept. 29, 1969.

§ 22.2 To an amendment prohibiting the administrator from setting ceiling prices for do-

mestic crude oil above a certain level while performing the functions transferred to him in a bill creating a new Federal Energy Administration, an amendment exempting from the imposition of that ceiling price new crude petroleum sold by producers of less than 30,000 barrels per day was held a germane exception. 120 CONG. REC. 5449, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 22.3 To an amendment limiting discretionary powers conferred in a bill, an amendment providing an exception from that limitation is germane. 120 CONG. REC. 5449, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 22.4 To a section containing "definitions" of two terms referred to in a bill, an amendment adding a further definition of other terms contained in the bill was held germane, although its effect was to provide an exemption from a limitation on authority contained in another section of the bill. 120 CONG. REC. 5640, 5641, 93d Cong. 2d Sess., Mar. 7, 1974 [H.R. 11793].

§ 22.5 To an amendment amending section 10(e) of the National Labor Relations Act to require National Labor Relations Board certifications of employee elections of unions as exclusive bargaining agents only where there has been a secret ballot, a substitute amendment containing the same requirement with exceptions where an employer has been shown to have undermined the election or is otherwise estopped from challenging the election was held germane as a restatement of the original amendment with related exceptions. 123 CONG. REC. 32608, 95th Cong. 1st Sess., Oct. 6, 1977 [H.R. 8410].

§ 23. Amendments Providing for Conditions or Qualifications

§ 23.1 To a bill authorizing the procurement of military weapons for the fiscal year, an amendment prohibiting procurement from a particular facility pending the submission of a report by the Comptroller General relating to the feasibility of deactivating that facility was held to be germane. 116 CONG. REC. 14481, 91st Cong. 2d Sess., May 6, 1970.

§ 23.2 To a bill authorizing military procurement, research, development and construction, an amendment comprising a statement of congressional policy with respect to foreign policy affecting Vietnam was ruled out as not germane. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 23.3 To a substitute for a committee amendment to a housing bill, an amendment was held germane which sought to give the Federal Housing Administrator authority to withhold financial aid under any title of the substitute unless written assurances were received from the recipients of such aid that the property on account of which the aid was to be given would be available for sale or occupancy without discrimination. 105 CONG. REC. 8654, 86th Cong. 1st Sess., May 20, 1959.

§ 23.4 To a bill providing for scholarships, an amendment relating to requirements for eligibility for such scholarships was held to be germane. 111 CONG. REC. 22475, 89th Cong. 1st Sess., Sept. 1, 1965.

§ 23.5 To a bill making grants to medical schools to be used for student scholarships, an amendment establishing a National Commission on Medical, Dental, and Optometric Scholarships to prepare and evaluate national examinations for purposes of testing qualifications of scholarship applicants was held to be germane. 111 CONG. REC. 22475, 89th Cong. 1st Sess., Sept. 1, 1965.

§ 23.6 To that title of an omnibus agricultural bill establishing an annual ceiling on subsidy payments to producers of cotton, wheat and feed grains, an amendment prohibiting any price support payments under the bill unless

such producers are certified by the Secretary of Labor to be in compliance with applicable health and safety laws was held to be germane. 116 CONG. REC. 27472, 91st Cong. 2d Sess., Aug. 5, 1970.

§ 23.7 To a bill permitting the Tennessee Valley Authority to raise capital by issuance of bonds, an amendment placing restrictions on the use of such funds for the purchase of foreign-made equipment was held to be germane. 105 CONG. REC. 7720, 86th Cong. 1st Sess., May 7, 1959.

§ 23.8 To a bill enabling certain federal credit agencies to enter into trust agreements with the Federal National Mortgage Association and permitting that association to sell participation certificates based on a pool of the credit agencies' loans, an amendment providing that such participation certificates be obligations guaranteed as to principal and interest by the United States was held to be germane. 112 CONG. REC. 10908, 89th Cong. 2d Sess., May 18, 1966.

§ 23.9 To a bill granting the consent of Congress for Virginia, Maryland, and the District of Columbia to amend the Washington Metropolitan Area Transit Compact to establish a transit authority for the region, a committee amendment requiring the submission of certain proposals to the House and Senate Committees on the Judiciary, thereby adding another condition to those contained in the bill with respect to the establishment of a transit authority, was held germane and in order. 112 CONG. REC. 25677, 89th Cong. 2d Sess., Oct. 7, 1966.

§ 23.10 To a substitute amendment adding to a section a new subsection to impose two diverse conditions on a regulatory authority conferred in that section, an amendment to another portion of that section to change a third related condition imposed by the bill on that authority was held germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 1, 1979 [S. 1030].

§ 23.11 To a bill amending various education acts and providing new authorizations for education grants to states, an amendment designed to insure that administration of programs authorized by the bill or amended acts conform to principles established by the Civil Rights Act of 1964 was held to be germane. 113 CONG. REC. 13582, 90th Cong. 1st Sess., May 23, 1967.

§ 23.12 To a bill authorizing grants for construction and modernization of private nonprofit hospitals in the District of Columbia, an amendment making approval of such a grant contingent upon adoption by the hospital of certain policies respecting performance of abortions was held not to be germane, constituting a limitation unrelated to the subject of construction. 117 CONG. REC. 46567, 46569, 92d Cong. 1st Sess., Dec. 13, 1971.

§ 23.13 To a bill authorizing the funding of a variety of programs which satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane. 119 CONG. REC. 20099-101, 93d Cong. 1st Sess., June 18, 1973.

§ 23.14 To a bill providing a comprehensive grant program for improvement of state and local law enforcement and criminal justice systems, including within its scope the subject of welfare of law enforcement officers, an amendment requiring states to enact a law enforcement officers' grievance system as a prerequisite to receiving grants under the bill was held to come within the general subject of law enforcement improvement covered by the bill and was held germane. 119 CONG. REC. 20099-101, 93d Cong. 1st Sess., June 18, 1973.

§ 23.15 To a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain

public lands—including naval petroleum reserves—an amendment in the nature of a substitute containing similar provisions and authorizing the President to place petroleum reserves in strategic storage facilities "pursuant to any program subsequently authorized by Congress" was held germane as not itself establishing a strategic storage facility (a matter within the jurisdiction of the Committee on Armed Services) but as merely conditioning the President's authority upon separate enactment of such program. 121 CONG. REC. 21633, 94th Cong. 1st Sess., July 8, 1975 [H.R. 49, national petroleum reserves on public lands].

§ 23.16 To a title of a proposition reported from the select ad hoc Committee on the Outer Continental Shelf comprehensively amending the Outer Continental Shelf Lands Act to impose diverse restrictions and conditions on the management and development of its energy resources, including safety and construction regulations on all physical facilities and equipment used therein and a requirement for federal purchase of such energy resources, an amendment to require that vessels, rigs, and platforms used in such development be built and operated by domestic concerns was held germane as a further restriction to those already contained in the title. 122 CONG. REC. 23167, 23168, 94th Cong. 2d Sess., July 21, 1976 [H.R. 6218].

§ 23.17 To a bill extending the authorities of one agency including requirements for consultation with several other agencies, an amendment requiring that agency to perform a function based upon a analysis furnished by yet another agency was held germane as an additional limitation on the authority of the agency being extended which did not separately mandate the performance of an unrelated function by another entity. 124 CONG. REC. 23108, 95th Cong. 2d Sess., July 27, 1978 [H.R 12151].

§ 23.18 An amendment to an authorization bill which conditions the obligation or expenditure of funds therein by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other acts is germane so long as the amendment does not directly affect the use of other funds. 119 CONG. REC. 26210, 93d Cong. 1st Sess., July 26, 1973. Similarly, an amendment which conditions the expenditure of funds covered by a bill by restricting their availability during months in which there is an increase in the public debt may be germane so long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 25, 1979 [H.J. Res. 404].

§ 24. Amendment Postponing Effectiveness of Legislation Pending Contingency

§ 24.1 An amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. 113 CONG. REC. 23977, 24002, 90th Cong. 1st Sess., Aug. 24, 1967; 121 CONG. REC. 11512, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096]; 121 CONG. REC. 30227, 94th Cong. 1st Sess., Sept. 25, 1975 [H.R. 1287]. An amendment is not germane if it makes the effectiveness of a bill contingent upon an unrelated event or determination. 119 CONG. REC. 40837, 93d Cong. 1st Sess., Dec. 11, 1973. Thus, an amendment making the implementation of federal legislation contingent upon the enactment of unrelated state legislation is not germane. 113 CONG. REC. 17921, 90th Cong. 1st Sess., June 29, 1967.

§ 24.2 The precedents indicate that an authorization may be made contingent on a future event; but the event must be related to the subject matter before the House. 114

CONG. REC. 5426, 90th Cong. 2d Sess., Mar. 6, 1968.

§ 24.3 To a bill authorizing an appropriation of funds, an amendment holding the authorization in abeyance pending an unrelated contingency is not germane. 114 CONG. REC. 5426, 90th Cong. 2d Sess., Mar. 6, 1968.

§ 24.4 To a bill extending and amending laws relating to housing and the renewal of urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until enactment of legislation raising additional revenue, was held not to be germane. 105 CONG. REC. 8840, 86th Cong. 1st Sess., May 21, 1959. Likewise, an amendment delaying the availability of an appropriation pending an unrelated contingency—the enactment of certain revenue legislation into law—is not germane to an appropriation bill. Thus, to a joint resolution appropriating funds for emergency fuel assistance, an amendment prohibiting the obligation of such funds before the enactment of an oil windfall profit tax was held not germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 25, 1979 [H.J. Res. 430].

§ 24.5 To a bill amending the Foreign Assistance Act of 1961, providing new authorizations and policy declarations, an amendment to prohibit use of any funds available until further assistance under the act had been approved in a national referendum was ruled out as not germane. 109 CONG. REC. 15608, 88th Cong. 1st Sess., Aug. 22, 1963. *Note:* It may be noted that procedures relating to a referendum such as that proposed in the amendment would be a subject within the jurisdiction of another committee.

§ 24.6 To a bill authorizing funds for construction of atomic energy facilities in various parts of the Nation, an amendment making the initiation of any such project contingent upon the enactment of federal or state fair housing measures was ruled out as not germane. 113 CONG. REC. 17921, 90th Cong. 1st Sess., June 29, 1967.

§ 24.7 To a bill providing in part for marketing quotas for feed grains, an amendment proposing that provisions of the bill remain inoperative pending completion of certain committee investigations of alleged mismanagement of agricultural programs was held to be germane. 108 CONG. REC. 11373, 87th Cong. 2d Sess., June 21, 1962.

§ 24.8 To a bill authorizing funds for elementary and secondary education, an amendment providing that no funds shall be expended thereunder "so long as the present . . . Commissioner of Education occupies that office" was held to be germane. 112 CONG. REC. 25583, 89th Cong. 2d Sess., Oct. 6, 1966.

§ 24.9 To a bill authorizing funds for foreign assistance, an amendment holding in abeyance, "until 90 days after the final settlement of hostilities . . . in Vietnam," all foreign assistance under the Foreign Assistance Act, was ruled out as not germane. 113 CONG. REC. 24002, 90th Cong. 1st Sess., Aug. 24, 1967.

§ 24.10 To a bill authorizing appropriations for the Arms Control and Disarmament Agency, an amendment delaying the effectiveness of the authorization until the Soviet Union "ceases to supply military articles to our enemy in Vietnam," was ruled out as not germane. 114 CONG. REC. 5426, 90th Cong. 2d Sess., Mar. 6, 1968.

§ 24.11 To a bill authorizing funds for foreign assistance, an amendment making such aid to any nation in Latin America contingent upon the enactment of tax reform measures by that nation was ruled out as not germane. 113 CONG. REC. 23977, 90th Cong. 1st Sess., Aug. 24, 1967.

§ 24.12 To a bill extending and amending laws relating to the improvement of housing and urban communities, an amendment pro-

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viding that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until the enactment of legislation raising additional revenue, was held not to be germane. 105 CONG. REC. 8840, 86th Cong. 1st Sess., May 21, 1959.

§ 24.13 To an amendment in the form of a new title providing a program to assist public schools in the elimination of racial segregation, an amendment making the authorization of funds in that title contingent upon the appropriation of certain other funds for public school education at levels not below those for an immediately preceding fiscal year was held germane. 117 CONG. REC. 39337, 92d Cong. 1st Sess., Nov. 4, 1971.

§ 24.14 To a bill reported from the Committee on Agriculture directing the Secretary of Agriculture to expend all sums appropriated for the Rural Environmental Assistance Program, an amendment delaying the effectiveness of the bill until Congress enacts legislation either increasing the statutory ceiling on the public debt limit or raising revenue by the amount of spending in the bill; or until the Comptroller General reports that such expenditures, together with all other outlays during that fiscal year, will not exceed revenue and debt limit totals was held not germane. 119 CONG. REC. 3708, 3709, 93d Cong. 1st Sess., Feb. 7, 1973.

§ 24.15 An amendment delaying the effectiveness of a bill pending the enactment of other legislation and requiring actions by committees and agencies not involved in the administration of the program affected by the bill was ruled out as not germane. 119 CONG. REC. 3708, 3709, 93d Cong. 1st Sess., Feb. 7, 1973.

§ 24.16 An amendment delaying the effectiveness of a bill contingent upon actions not involved in the administration of the affected program which extend in scope beyond the authorities contained in the bill is not germane. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Nov. 14, 1980 [S. 885]. In this instance, to a bill granting authority to the Bonneville Power Administration to acquire electric power, an amendment prohibiting the Administrator from acquiring any resource derived from a new nuclear generating facility until the Nuclear Regulatory Commission has licensed the operation of a permanent nuclear waste storage facility was held not germane as an unrelated contingency addressing nuclear licensing authority for all government and privately owned storage facilities on a national basis, not solely related to the purchase and transmission of power in the Northwest region. Likewise, to a bill authorizing military assistance to Israel and funds for the United Nations Emergency Force in the Middle East, an amendment postponing the availability of funds to Israel until the President certifies the existence of a designated level of energy supplies for the United States is not germane. 119 CONG. REC. 40837, 93d Cong. 1st Sess., Dec. 11, 1973.

§ 24.17 To a bill authorizing foreign economic and military assistance, an amendment providing that the percentage of funds obligated or expended pursuant to that act at any time during fiscal 1974 shall not be more than 10 percent greater than percentages expended under certain other programs authorized by Congress was held to impose a germane limitation on the availability of funds authorized in the bill which did not directly affect the operation of other government programs. 119 CONG. REC. 26210, 93d Cong. 1st Sess., July 26, 1973.

§ 24.18 To a title of a bill establishing procedures permitting either House of Congress to disapprove an impoundment of appropriated funds by the President, an amendment delaying the effective date of that title to a day certain was held germane. 119 CONG. REC. 25828, 93d Cong. 1st Sess., July 25, 1973. Similarly, to an amendment abolishing the Federal

Energy Administration on a date certain and transferring some of its functions to other agencies at that time, an amendment delaying the termination date of that agency for one year was held germane. 122 CONG. REC. 16025, 16026, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169].

§ 24.19 To a section of a bill reported from the Committee on International Relations authorizing appropriations for humanitarian and evacuation assistance to war refugees in South Vietnam, an amendment making that authorization contingent upon a report to Congress on the costs of a portion of the evacuation program, but not requiring the implementation of any new program (within the jurisdiction of another committee) was held germane as a related contingency. 121 CONG. REC. 11529, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 24.20 An amendment to a substitute postponing the effective date of the granting of humanitarian and evacuation assistance to South Vietnam refugees until the President determines and reports to Congress on the ownership of gold sought to be removed from Cambodia and South Vietnam was ruled out as not germane. 121 CONG. REC. 11519, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 24.21 To a pending amendment coupling the decontrol of oil prices to the enactment of windfall profits taxes, defining with some specificity the content of such tax legislation, and postponing the decontrol pending Presidential certification that such taxes have been enacted, an amendment thereto containing similar tax legislation but with a less precise description thereof and postponing the decontrol until the Congress by concurrent resolution declares that such a tax is in effect, was held to be within the scope of the provisions of the amendment to which offered and a germane modification thereof. 121 CONG. REC. 23997, 94th Cong. 1st Sess., July 22, 1975 [H.R. 7014].

§ 24.22 To a bill amending the United Nations Participation Act in such a way as to reimpose the U.N. embargo on the importation of Rhodesian chrome, an amendment permitting the continued importation of such chrome so long as chrome is imported from the Soviet Union unless the President determines that the Soviet Union has lifted the restrictions against the emigration of its citizens, delayed the operation of the proposed legislation pending an unrelated contingency and was ruled out as not germane. 121 CONG. REC. 30227, 94th Cong. 1st Sess., Sept. 25, 1975 [H.R. 1287].

§ 24.23 To a Senate amendment to a general appropriation bill rescinding funds for continued construction and development of the B-1 bomber, an amendment proposed in a motion to concur therein with an amendment, to delay the effectiveness of the rescission until after either House of Congress so approves and until after ratification by the Senate of a Salt II treaty, was held not germane as an unrelated contingency, since the condition involved actions by agencies and authorities not charged with administration of the B-1 bomber program and since the Salt II negotiations involved a broad range of arms control issues not necessarily related to the B-1 bomber program. 124 CONG. REC. 4072, 95th Cong. 1st Sess., Feb. 22, 1978 [H.R. 9375].

§ 24.24 To a bill authorizing defense assistance to a foreign nation, an amendment delaying the availability of that assistance until that nation's former ambassador testified before a House committee (which had been directed by the House to investigate gifts by that nation's representatives to influence Members and employees), was held germane as a contingency which sought to compel the furnishing of information related to efforts to induce defense assistance to that nation. 124 CONG. REC. 23933, 95th Cong. 2d Sess., Aug. 2, 1978 [H.R. 12514].

§ 25. Amendments Providing for Restrictions or Limitations

§ 25.1 Restrictions and limitations sought to be added by way of amendment must be germane to the provisions of the bill. Thus, to a bill amending a statute, an amendment prohibiting assistance under that act or under any other act for a particular purpose, and affecting laws not being amended by the bill, was ruled out as not germane. 122 CONG. REC. 13419, 13427, 94th Cong. 2d Sess., May 11, 1976 [H.R. 12835].

§ 25.2 To a bill authorizing supplemental appropriations for military procurement, research and construction, an amendment declaring it to be the sense of Congress that none of the funds therein authorized shall be used to carry out military operations in North Vietnam was held to be a restriction on the authorizations contained in the bill and therefore germane. 113 CONG. REC. 5143, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 25.3 To a bill authorizing federal assistance on the city, state and national levels for projects designed to prevent juvenile delinquency, an amendment to limit the federal assistance to projects within the District of Columbia was held to be germane. 107 CONG. REC. 17612, 87th Cong. 1st Sess., Aug. 30, 1961.

§ 25.4 To a bill authorizing appropriations for the Atomic Energy Commission's operating expenses, an amendment prohibiting the commission from issuing or renewing a license to Columbia University to operate a nuclear reactor in New York City and revoking such existing licenses was held germane as a specific limitation on the general operations of the commission. 118 CONG. REC. 19931, 92d Cong. 2d Sess., June 7, 1972.

§ 25.5 To an amendment increasing the authorized amount for operating expenses for the Atomic Energy Commission, a substitute reducing the figure in the amendment but also adding a new subsection prohibiting the commission from exploding nuclear weapons was held not germane. 118 CONG. REC. 19920, 19927, 92d Cong. 2d Sess., June 7, 1972.

§ 25.6 To a bill amending a statute, an amendment prohibiting assistance under that act or under any other act for a particular purpose was held too general in scope, affecting laws not being amended by the bill and was ruled out as not germane. 122 CONG. REC. 13419, 13427 94th Cong. 2d Sess., May 11, 1976 [H.R. 12835].

§ 25.7 To a bill narrowly amending the National Defense Education Act of 1958 to authorize programs to increase understanding of foreign languages and cultures, an amendment prohibiting any assistance under that act to any education program offering the "religion of secular humanism" was construed as a restriction on other programs under that act not amended by the pending bill and was ruled out as not germane. 122 CONG. REC. 13531, 13532, 94th Cong. 2d Sess., May 12, 1976 [H.R. 12851].

§ 25.8 To a bill establishing a new Department of Education and authorizing the furnishing of medical services, supplies, and facilities for its employees, an amendment prohibiting the use of such services to perform certain abortions was held germane as a restriction on use of authorized facilities. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 11, 1979 [H.R. 2444]. With respect to that part of the bill authorizing the department to allow the use by public and private agencies of facilities maintained by the department at remote locations, an amendment prohibiting the use of such facilities by higher education institutions to perform certain abortions was held germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 11, 1979 [H.R. 2444].

§ 25.9 To a title of a bill as perfected, limiting in several respects an executive official's authority to construe legal authorities trans-

ferred to him in the bill except as specifically permitted by law, an amendment further restricting that official's authority to construe under any circumstances certain laws to be administered by him was held germane as an additional (although more restrictive) curtailment of existing authorities being transferred by the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 11, 1979 [H.R. 2444].

§ 26. — Limitation on Powers Delegated in Bill

§ 26.1 To a proposition conferring discretionary authority, an amendment limiting or restricting the exercise of that authority is germane. 120 CONG. REC. 5309, 5310, 93d Cong. 2d Sess., Mar. 5, 1974 [H.R. 11793]; 120 CONG. REC. 5436, 5437, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793]; 124 CONG. REC. 23730, 95th Cong. 2d Sess., Aug. 1, 1978 [H.R. 12514]. Indeed, an amendment limiting the exercise of a discretionary power conferred in a bill may be germane even though it incorporates as a term of measurement a qualification or condition applicable to entities beyond the scope of the bill. Thus, to a bill authorizing the exercise of certain powers by carriers licensed under the bill, an amendment limiting the duration of contracts by a "carrier" to the maximum duration of similar contracts by railroad carriers was held germane as a limitation on powers granted in the bill. 124 CONG. REC. 21704, 95th Cong. 2d Sess., July 19, 1978 [H.R. 1609]. Similarly, to a proposition that the Administrator of Veterans' Affairs be authorized to establish a maximum interest rate for loans, an amendment stating that "the rate fixed shall not be higher than the FHA rate" was held germane. 115 CONG. REC. 27351, 91st Cong. 1st Sess., Sept. 29, 1969.

§ 26.2 To a bill authorizing funds for the National Aeronautics and Space Administration, an amendment was held to be germane which prohibited the administrator from entering contracts for "support" services except where certain comparisons had been made between the cost of such contracts and the cost of obtaining the services by directly hiring employees. 113 CONG. REC. 17748, 90th Cong. 1st Sess., June 28, 1967.

§ 26.3 To that section of a bill providing that federal authority granted in the bill shall not preempt more stringent state laws, an amendment further limiting the preemptive effect of that authority is germane so long as it does not apply to federal powers provided by other law. 118 CONG. REC. 10648, 92d Cong. 2d Sess., Mar. 28, 1972.

§ 26.4 To that section of a water pollution control bill reserving to states and interstate agencies the right to adopt standards for discharges of pollutants, defined in the bill to include radioactive material, an amendment providing that "nothing shall preclude or deny" the right of states or interstate agencies from adopting standards for release of radioactive materials and thermal discharges into water which are more stringent than those imposed by the bill was held to be germane. 118 CONG. REC. 10648, 92d Cong. 2d Sess., Mar. 28, 1972.

§ 26.5 To a section of an amendment in the nature of a substitute conferring authority upon the President to establish rules for ordering of priorities among users of petroleum products and requiring that vital services in the areas of education and transportation shall receive priority, an amendment restricting that regulatory authority by requiring that petroleum products allocated for public school transportation be used only between the student's home and the school closest thereto was held germane. 119 CONG. REC. 41267-69, 93d Cong. 1st Sess., Dec. 13, 1973.

§ 26.6 To a section of an amendment in the nature of a substitute providing that the Civil Aeronautics Board and other regulatory agencies shall have authority within their jurisdictions to take actions to conserve energy, an

amendment requiring Civil Aeronautics Board and congressional approval of revisions of scheduled airline flights (not amending the rules of the House) was held germane as a restriction on the authority granted in that section. 119 CONG. REC. 41747, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 26.7 To a section of a bill prescribing the functions of a new Federal Energy Administration by conferring wide discretionary powers upon the administrator, an amendment limiting the authority of the administrator in setting prices for propane gas by requiring an equitable allocation of costs of production based upon certain delineated standards was held germane where the amendment did not directly amend existing law. 120 CONG. REC. 5309, 5310, 93d Cong. 2d Sess., Mar. 5, 1974 [H.R. 11793].

§ 26.8 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law," an amendment not only prescribing guidelines to be followed by the administrator in establishing prices for petroleum, thereby limiting the discretionary authority conferred in that section but also imposing price ceilings on petroleum products where the administrator had not exercised his pricing authority pursuant to those guidelines, was held to directly change substantive law and was ruled out as not germane. 120 CONG. REC. 5433-36, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 26.9 While a proposition reorganizing existing discretionary governmental authority under a new agency may be amended by imposing limitations on the exercise of those functions, an amendment directly changing policies in the substantive law to be administered by that agency is not germane. 120 CONG. REC. 5433-36, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 26.10 To a section of a bill prescribing the functions of a new Federal Energy Administration, an amendment prohibiting the promulgation of petroleum rationing rules without prior approval by Congress, was held a germane limitation on that discretionary authority. 120 CONG. REC. 5439, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793, the Federal Energy Administration Act]. To a bill authorizing an agency to undertake certain activities, an amendment providing that regulations issued pursuant to that authority may be disapproved by Congress is a germane restriction upon the authority conferred in the bill so long as the disapproval mechanism does not amend the rules or procedures of the House. 122 CONG. REC. 12344, 12345, 12348, 94th Cong. 2d Sess., May 4, 1976 [H.R. 12704]. In this instance, to a bill reported from the Committee on Science and Technology authorizing the Environmental Protection Agency to conduct research, development, and demonstration activities under various laws relating to the environment, an amendment subjecting any regulation promulgated by that agency in connection therewith to congressional disapproval was held germane as a limitation on the authority contained in the bill which did not apply to regulations issued by that agency subsequent to the research and development stage under authority of other law.

§ 26.11 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law," an amendment prohibiting the administrator from setting price ceilings for domestic crude oil above a designated level in the exercise of the authority transferred to him in the bill, was held a germane limitation—not directly amending existing law—on the discre-

tionary authority conferred in that section. 120 CONG. REC. 5444-46, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 26.12 To a bill containing diverse sections: (1) continuing United States participation under the International Development Association Act; and (2) repealing existing law which prohibited U.S. citizens from holding gold, an amendment adding a new section at the end of the bill directing the U.S. representative to IDA to oppose loans to nations not party to a nuclear nonproliferation treaty was held in order as a germane restriction on authority contained in section 1 of the bill. 120 CONG. REC. 22029, 93d Cong. 2d Sess., July 2, 1974 [H.R. 15465].

§ 26.13 To a bill containing diverse provisions relating to authorities of the Department of Defense, an amendment adding a new title precluding that department from utilizing certain real property for deployment of a weapons system pending a study was held germane as confined solely to activities of the Defense Department and not extending to the utilization of public domain land through another department. 126 CONG. REC. p ....., 96th Cong. 2d Sess., May 21, 1980 [H.R. 6974].

§ 27. — Restrictions on Use of Funds

§ 27.1 To a bill authorizing funds for a particular program, an amendment limiting the uses to which those funds may be put is germane. 120 CONG. REC. 28423, 28438, 28439, 93d Cong. 2d Sess., Aug. 15, 1974 [H.R. 12859]. However, a limiting amendment is not germane if it places restrictions on funds authorized or appropriated in other bills and in prior years. 113 CONG. REC. 24002, 90th Cong. 1st Sess., Aug. 24, 1967. To be germane, an amendment restricting the use of authorized funds in a pending title must relate solely to those funds and may not apply to another related category of funds. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 6, 1980 [H.R. 3829].

§ 27.2 To the "general provisions" title of an authorization bill, including authorizations for special pay to physicians and health professionals in the armed services as well as other miscellaneous provisions and authorizations, an amendment prohibiting the use of funds authorized by the bill to pay for abortions except where the life of the mother would be endangered if the fetus were carried to term, was held in order as a germane limitation on the use of the funds and authorities provided in the title. 124 CONG. REC. 33530, 95th Cong. 2d Sess., Oct. 4, 1978 [H.R. 14042]. *Note:* An amendment limiting the use of funds by a particular agency funded in a general appropriations bill may be germane at more than one place in the bill; the amendment may be offered when the paragraph carrying such funds is pending, or to any "general provisions" portion of the bill affecting that agency or all agencies funded by the bill. Thus, to the last title of a general appropriations bill, containing general provisions applying to funds carried throughout the bill, an amendment limiting the use of funds by an agency funded in a previous title of the bill was held germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 16, 1979 [H.R. 4393].

§ 27.3 To a bill authorizing supplemental appropriations for military procurement, research and development, and military construction, an amendment declaring it to be the sense of Congress that none of the funds therein authorized shall be used to carry out military operations in North Vietnam, was held to be germane. 113 CONG. REC. 5142, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 27.4 To a bill authorizing military expenditures, an amendment providing that "none of the funds authorized herein" be used except in accordance with a congressional declaration of support for the Geneva accords of 1954 and

1962 was ruled out as not germane. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 27.5 To that title of a bill authorizing the Attorney General to participate in actions brought on account of discriminatory practices of state and local governments, an amendment to limit expenditures to carry out purposes of the title was held to be germane. 110 CONG. REC. 2274, 88th Cong. 2d Sess., Feb. 6, 1964.

§ 27.6 To a bill appropriating funds for an additional Washington airport, an amendment placing a limit on the amount of the appropriation permitted to be used for the construction of an authorized access road was held to be germane. 105 CONG. REC. 12121, 86th Cong. 1st Sess., June 29, 1959.

§ 27.7 To a resolution authorizing an investigation and incidental travel to be undertaken by a committee of the House, an amendment placing restrictions on the funds permitted to be used in such travel may be germane. 109 CONG. REC. 1547, 88th Cong. 1st Sess., Jan. 31, 1963.

§ 27.8 To a bill authorizing appropriations to enter into contracts for the development of synthetic fuels, an amendment prohibiting the use of the funds to enter into contracts with any major oil company was held germane as an additional restriction on the authority granted under the act. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930].

§ 27.9 To an amendment changing a dollar amount in a bill, a substitute further changing that figure but also inserting a prohibition against certain activity and against the use of *any* funds in furtherance of that activity is not germane. 118 CONG. REC. 19920, 19927, 92d Cong. 2d Sess., June 7, 1972.

§ 27.10 To a bill authorizing appropriations for contributions to the United Nations Environment Fund, an amendment prohibiting the use of those funds to assist in the construction of North Vietnam was held germane as a restriction on the use of funds authorized by the bill. 119 CONG. REC. 15747, 15752, 93d Cong. 1st Sess., May 15, 1973.

§ 27.11 To a bill authorizing appropriations for the National Science Foundation, an amendment prohibiting the use of any funds appropriated to the National Science Foundation for research on a live human fetus outside the womb was held to be a germane restriction on the availability of funds to that agency and was not a reappropriation of those funds. 119 CONG. REC. 20946, 93d Cong. 1st Sess., June 22, 1973.

§ 27.12 To a bill comprehensively amending the Rural Electrification Act to establish a rural electrification and telephone revolving fund for insured and guaranteed loans administered by the Rural Electrification Administration, an amendment inserting a new section to provide that no funds available under that act shall be used outside the United States or its possessions was held germane as a restriction on the use of funds by the REA. 119 CONG. REC. 10395, 10396, 93d Cong. 1st Sess., Apr. 4, 1973.

§ 27.13 To a bill continuing United States participation under the International Development Association Act, an amendment prohibiting the use of U.S. contributions as loans for the purchase of nuclear weapons or materials was held germane as an additional restriction on the use of loans by recipient nations to those already contained in the act. 120 CONG. REC. 22026, 22028, 93d Cong. 2d Sess., July 2, 1974 [H.R. 15465].

§ 27.14 To a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of those funds to a subcategory of the same recipients is germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 25, 1979 [H.J. Res. 404]. In this instance, to a

proposition limiting the use of any fiscal 1980 funds to pay salary increases for Members of Congress above five percent while permitting top executive and judicial salaries to be increased by seven percent, an amendment further restricting availability of those funds to pay salaries of those Members voting against any salary increase for Members contained in the pending joint resolution was held germane as an additional restriction on the use of the same funds applied to the same category of recipients.

§ 27.15 To a bill providing assistance for mass transportation programs, which included language permitting school systems to be eligible applicants for school bus subsidies where not in competition with private operators, an amendment prohibiting the use of funds authorized by the bill to implement transportation programs intended to overcome racial imbalance in school systems, was held germane as a restriction on the availability of assistance contained in the bill. 120 CONG. REC. 28423, 28438, 28439, 93d Cong. 2d Sess., Aug. 15, 1974 [H.R. 12859].

§ 27.16 Although it is ordinarily germane to limit by way of amendment the uses to which an authorization of appropriations carried in a bill may be applied by an agency, that principle is invoked primarily with respect to annual authorization bills reported by the committees having legislative and oversight jurisdiction over such agencies, and would not necessarily apply to an organizational bill reported by the Committee on Government Operations to create a new department in the executive branch and to transfer the administration of existing status and programs to that department without change. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 19, 1979 [H.R. 2444]. To a title of a bill establishing a new Department of Education, which addresses only the administrative structure of the department and not its authority to carry out the programs transferred to it, an amendment prohibiting the department from utilizing funds to compel the transportation of students or teachers to establish racial or ethnic balance was ruled not germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 19, 1979 [H.R. 2444].

§ 27.17 To a bill authorizing funds and limited use of troops for a specific purpose, an amendment stating that "notwithstanding any other provision of this Act" funds authorized in the act could not be used for deployment of troops beyond a certain period of time was held to be a proper limitation on use of funds and germane to the bill. 121 CONG. REC. 11508, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 27.18 While an amendment may be germane which limits for certain purposes the authorizations granted in a bill, the amendment must be confined to the agencies, authority, and funds addressed by the bill and may not be more comprehensive in scope. Thus, to a bill amending the Bretton Woods Agreement Act relative to the International Monetary Fund Articles of Agreement, to approve an increase in the U.S. quota in the fund and to authorize dealing in gold in connection therewith, an amendment prohibiting the alienation of gold to *any* international organization or its agents, or to *any* person or organization acting as purchaser for any central bank or governmental institution was held not germane as more comprehensive in scope. 122 CONG. REC. 24040, 24041, 94th Cong. 2d Sess., July 27, 1976 [H.R. 13955].

§ 27.19 To a title of a bill authorizing a United States contribution to the Asian Development Fund, a special fund of the Asian Development Bank, and providng accounting procedures by the bank relative to such contribution, an amendment restricting United States payments to the bank for subscriptions in bank stock, as well as payments to the spe-

cial fund, was held not germane as affecting funds not carried in the bill. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 6, 1980 [H.R. 3829].

E. RELATION OF AMENDMENT OR BILL TO EXISTING LAW

§ 28. Generally; Amendments to Bills Which Amend Existing Law

§ 28.1 The rule of germaneness applies to the relationship between a proposed amendment and the pending bill to which offered and not to the relation between such amendment and the existing statute which the pending bill seeks to amend. 113 CONG. REC. 28649, 90th Cong. 1st Sess., Oct. 11, 1967. Where a bill amends existing law in one narrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane. 105 CONG. REC. 18841, 86th Cong. 1st Sess., Sept. 4, 1959; 113 CONG. REC. 22768, 90th Cong. 1st Sess., Aug. 16, 1967; 117 CONG. REC. 45535, 92d Cong. 1st Sess., Dec. 8, 1971. A bill amending several sections of one title of the United States Code does not necessarily bring the entire title under consideration so as to permit an amendment to any portion thereof. 113 CONG. REC. 28649, 90th Cong. 1st Sess., Oct. 11, 1967.

§ 28.2 To a proposition amending existing law in several particulars but relating to a single subject affected thereby, an amendment proposing to modify the law but not related to the subject of the pending proposition is not germane. It follows that, to a resolution amending several clauses of a rule of the House but confined in its scope to the issue of access to committee meetings and hearings, an amendment to another clause of that rule relating to committee staffing is not germane. 119 CONG. REC. 6714, 93d Cong. 1st Sess., Mar. 7, 1973. In a similar instance, it was held that, to a resolution to amend two clauses of Rule XI so as to require House committee meetings and hearings to be open to the public except where the committee determined otherwise by open roll call vote, an amendment to another clause of that rule to provide that one-third of a committee's investigative funds be available for minority staff was held not germane. *Id.*

§ 28.3 To a bill amending an existing law to accomplish a particular purpose, an amendment to another law not related to the same subject is not germane. Thus, to a bill amending several sections of the Federal Reserve Act to expand the authority of the Federal Reserve Board to manage the national monetary supply by providing mandatory reserve requirements and by imposing other requirements on member banks, an amendment to another law to permit national banks to purchase small banker-owned banks was conceded to be nongermane since unrelated to the Federal Reserve Act. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 20, 1979 [H.R. 7]. In the 87th Congress, to a bill amending the Foreign Assistance Act of 1961, amendments to the Mutual Security Act of 1954 and the Legislative Appropriation Act of 1961, were conceded not to be germane. 108 CONG. REC. 13432, 87th Cong. 2d Sess., July 12, 1962.

§ 28.4 To a bill amending one subsection of a criminal law dealing with one prohibited activity, an amendment to another subsection dealing with a related but separate prohibited activity is not germane. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [S. 869]. Similarly, if a bill seeks only to modify the penalty provisions of a law proscribing specified conduct, an amendment is not germane if it seeks to broaden the scope or alter the applicability of such law. 113 CONG. REC. 22768, 90th Cong. 1st Sess., Aug. 16, 1967.

§ 28.5 If a bill amends existing law in several respects, but relates to a single subject or has a single purpose, a proposed amendment is not germane that proposes to modify the law further in a manner not related to the purpose of the bill. 111 CONG. REC. 18631, 18633, 89th Cong. 1st Sess., July 28, 1965; 120 CONG. REC. 2064, 93d Cong. 2d Sess., Feb. 5, 1974.

§ 28.6 Where it is proposed to amend existing law in one particular, an amendment to further amend the law in another respect unrelated to the bill is not germane. 112 CONG. REC. 22043, 89th Cong. 2d Sess., Sept. 8, 1966; 121 CONG. REC. 24841, 94th Cong. 1st Sess., July 25, 1975 [H.R. 5900, situs picketing in construction industry]. To a bill amending existing law for limited purposes, an amendment further changing that law but affecting programs beyond the scope of the bill and the law being amended and waiving other inconsistent provisions of law is not germane. 123 CONG. REC. 30534, 95th Cong. 1st Sess., Sept. 23, 1977 [H.R. 3, Medicare-Medicaid Anti-fraud and Abuse amendments].

§ 28.7 To a bill amending existing law in a limited respect, an amendment repealing the law is not germane. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964.

§ 28.8 A proposal amending existing law in several respects but which is confined to the issue of federal financial assistance does not necessarily permit as germane amendments to other sections of that law involving federal regulations governing the entities being financed by the bill. 124 CONG. REC. 38678, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 1216]. In this instance, to a proposition amending existing laws in several respects but limited in scope to the issue of federal funding of railroads, an amendment to one of those laws to require any railroad to maintain certain freight rate practices and waiving provisions of antitrust laws to permit enforcement of those rate practices was held not germane as addressing regulatory authorities in law and not confined to the issue of federal financial assistance.

§ 28.9 To a bill amending one section of an existing law for a specific purpose, an amendment proposing further modification of the law is not germane. 109 CONG. REC. 12777, 88th Cong. 1st Sess., July 17, 1963.

§ 28.10 To a bill amending an act in several particulars, an amendment proposing further modification of the act in respects not related to the subject of the bill is not germane. 114 CONG. REC. 4348, 90th Cong. 2d Sess., Feb. 27, 1968.

§ 28.11 To a substitute modifying a section of existing law, an amendment further modifying that section may be germane. 107 CONG. REC. 4797, 87th Cong. 1st Sess., Mar. 24, 1961.

§ 28.12 Where a bill narrowly amends only one section of existing law, but is broadened by amendment to alter another section of the law, a further amendment to change still other sections of the law may be germane. 113 CONG. REC. 15159, 90th Cong. 1st Sess., June 8, 1967.

§ 28.13 To a bill amending two sections of the Food Stamp Act of 1964, an amendment proposing a change in a third section of the act was held germane. 113 CONG. REC. 15159, 90th Cong. 1st Sess., June 8, 1967.

§ 28.14 Where a bill amends existing law in two unrelated respects, an amendment proposing a third modification may be germane. 113 CONG. REC. 33142, 91st Cong. 1st Sess., Nov. 5, 1969; 122 CONG. REC. 13411, 94th Cong. 2d Sess., May 11, 1976 [H.R. 12835].

§ 28.15 To a substitute amendment modifying a section of existing law, an amendment further modifying that section may be germane. 107 CONG. REC. 4806, 87th Cong. 1st Sess., Mar. 24, 1961.

§ 28.16 To a bill authorizing appropriations for military procurement and containing provisions modifying existing law with respect to the disposal of surplus military equipment, an amendment proposing a further modification of that law to prohibit the transfer of surplus guns and ammunition to individuals, clubs or organizations was held to be germane. 114 CONG. REC. 20767, 90th Cong. 2d Sess., July 11, 1968.

§ 28.17 To a bill amending various laws relating to agriculture, an amendment providing that, three years after enactment, provisions of the bill would expire and other specified agriculture legislation be repealed, was held to be germane. 108 CONG. REC. 11377, 87th Cong. 2d Sess., June 21, 1962.

§ 28.18 To a bill amending two sections of the Bank Holding Company Act to, first, redefine "bank holding company" to include companies having actual control of any bank and, second, exempt from the definition of such term certain institutions controlling banks engaged primarily in foreign business, an amendment to a third section of the act to change the definition of the word "company" to include partnerships was held to be germane. 115 CONG. REC. 33141, 91st Cong. 1st Sess., Nov. 5, 1969.

§ 28.19 To a bill amending those provisions of the Foreign Assistance Act of 1961 relating to military assistance to foreign nations, an amendment authorizing the transfer of military planes to Israel under conditions and procedures compatible with the basic law was held to be germane. 114 CONG. REC. 22098, 90th Cong. 2d Sess., July 18, 1968.

§ 28.20 To a bill amending the Federal Airport Act to provide that the new states Alaska and Hawaii be eligible for certain funds under the act, an amendment to make Puerto Rico similarly eligible and to amend the law in other respects was held not to be germane. 105 CONG. REC. 18841, 86th Cong. 1st Sess., Sept. 9, 1959.

§ 28.21 To a bill amending several sections of the National Foundation for the Arts and Humanities Act to extend the authorization for appropriations and redefine certain powers of the foundation, an amendment proposing to further amend the act to establish an office of Poet Laureate of the United States was ruled out as not germane. 114 CONG. REC. 4348, 90th Cong. 2d Sess., Feb. 27, 1968.

§ 28.22 To a bill striking out a section of existing law and inserting new language, an amendment adding the new language at the end of the section, rather than striking out the section and inserting new language, is germane. 109 CONG. REC. 23322, 88th Cong. 1st Sess., Dec. 4, 1963.

§ 28.23 To a bill amending one section of existing law to permit motor buses of a certain width to operate on the interstate highway system and directing an official to study the safety of the proposed width change, an amendment in the form of a new title to require a comprehensive review of all effects on highway safety and cost resulting from changes in width and weight limitations of any vehicles permitted by that section of law to use the interstate system was held to go beyond the scope of the bill and was ruled out as not germane. 117 CONG. REC. 26476, 92d Cong. 1st Sess., July 21, 1971.

§ 28.24 A bill amending several sections of an existing law may be sufficiently comprehensive in scope to permit amendments which are germane to other sections of that law. 121 CONG. REC. 3596, 94th Cong. 1st Sess., Feb. 19, 1975 [H.R. 3051]. To same effect, see 124 CONG. REC. 29488, 95th Cong. 2d Sess., Sept. 14, 1978 [H.R. 8729], where, to a bill containing several titles comprehensively amending the Airport and Airway Development Act in diverse respects, including aircraft noise reduction, regulation and funding,

general airport research and development, and development and demonstration grants, an amendment adding a new title amending the act to extend the authorization for State Airport Demonstration Grants was held germane.

§ 28.25 Where the pending text (the "Miscellaneous" title of an omnibus bill) contains several unrelated provisions on a general subject (education), an amendment, offered in the form of a new subsection, modifying one of the diverse laws amended by the pending title, may be germane. 117 CONG. REC. 39302, 39312, 92d Cong. 1st Sess., Nov. 4, 1971.

§ 28.26 To a bill not only containing authorizations for a fiscal year but also amending permanent laws in several respects, an amendment further amending one of those laws in a related way may be germane. 124 CONG. REC. 21196, 95th Cong. 2d Sess., July 17, 1978 [H.R. 12163]. In this instance, to a bill which not only authorized civilian research and development programs for the Department of Energy for a fiscal year but also amended in diverse ways several permanent laws relating to such programs, an amendment adding a new title to further amend one of those laws to define the term "research and development" for purposes of laws authorizing energy research and development was held germane. Similarly, to a bill authorizing funds for the food stamp program for the next fiscal year and changing the formula for state participation in the program, an amendment relating to the qualifications for recipients of aid under the program was held to be germane. 113 CONG. REC. 15159, 90th Cong. 1st Sess., June 8, 1967.

§ 28.27 To a measure relating generally to the subject of higher education and the various federal programs therefor, but containing several provisions modifying the Elementary and Secondary Education Act, an amendment, offered as a new subsection to one of those provisions, to prohibit the use of funds under the Elementary and Secondary Education Act for busing was held germane. 117 CONG. REC. 39302, 39312, 92d Cong. 1st Sess., Nov. 4, 1971. To a bill amending and extending various laws relating to higher education, a further amendment to one of those laws prohibiting the imposition of student admission quotas in applicable higher education programs was held germane as within the category of laws being amended by the bill, whereas an amendment imposing restrictions on preschool, elementary, and secondary education policy was held to broaden the scope of the bill and was ruled out as not germane. In this instance, to a bill amending the General Education Provisions Act in one narrow respect relating to higher education, an amendment to that act prohibiting the imposition of student admission quotas not only in institutions of higher education but also in public preschool, elementary, and secondary programs was held more general in scope and not germane. 122 CONG. REC. 13529, 13530, 94th Cong. 2d Sess., May 12, 1976 [H.R. 12851].

§ 28.28 To an amendment specifically changing two subsections of existing law to increase the loan levels for the 1971 crop of feed grains and wheat, an amendment limiting to $20,000 the total price support payments, including both purchase payments and loans, which any person may receive on those crops was held to go beyond the scope of the original amendment and was ruled out as not germane. 117 CONG. REC. 45535, 92d Cong. 1st Sess., Dec. 8, 1971.

§ 28.29 Where a proposition narrowly amends one section of existing law by changing a specific program therein, that section of law is not open to a further amendment that would enlarge the scope of the pending proposition. 117 CONG. REC. 45536, 92d Cong. 1st Sess., Dec. 8, 1971.

§ 28.30 To an amendment specifically changing two subsections of existing law to increase the loan levels for the 1971 crop feed grains

and wheat, an amendment to another subsection of the section pertaining to feed grains and directing the Secretary of Agriculture to increase all feed grain payments, including purchases, for the 1971 crop was held to go beyond the scope of the original amendment and was ruled out as not germane. 117 CONG. REC. 45536, 92d Cong. 1st Sess., Dec. 8, 1971.

§ 28.31 To an amendment in the nature of a substitute comprehensively amending several sections of the Clean Air Act with respect to the impact of the shortage of energy resources upon standards imposed under that act, an amendment to another section of that act suspending for a temporary period the authority of the Administrator of the Environmental Protection Agency to control automobile emissions was held germane. 119 CONG. REC. 41688, 41689, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 28.32 To that section of an amendment in the nature of a substitute which amended a section of the Emergency Petroleum Allocation Act of 1973 to authorize the President to establish priorities among users of petroleum products, an amendment establishing a procedure for congressional disapproval of such regulations (amending the rules of both Houses to provide for the privileged consideration of disapproval resolutions) was held germane, where the section of law being amended already contained a provision permitting either House to disapprove regulations exempting certain petroleum products from allocations under that section. 119 CONG. REC. 41716-18, 93d Cong. 1st Sess., Dec. 14, 1973. *Note:* The Chair relied in part upon the fact that the reported bill (H.R. 11450) contained a comparable disapproval provision in another section of the introduced text—relating to other energy conservation plans submitted by the President. That provision, however, was not included in the text of the amendment in the nature of a substitute (H.R. 11882) and the Chair properly declined, therefore, to rely too extensively upon inclusion of that provision in the original bill.

§ 28.33 Where an amendment in the nature of a substitute contained sections (1) authorizing an administrator established in the bill to regulate exports of certain energy resources and (2) amending an existing law which implicitly directed the President to limit exports by requiring domestic allocations of petroleum products, an amendment to the latter section affirmatively restricting exports under that law was held germane. 119 CONG. REC. 41743, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 28.34 To a portion of a bill amending several miscellaneous laws on a general subject, an amendment to another law relating to that subject is germane. 120 CONG. REC. 8508, 8509, 93d Cong. 2d Sess., Mar. 27, 1974 [H.R. 69, to amend and extend the Elementary and Secondary Education Act]. Although an amendment which changes a law not cited in a pending bill is ordinarily not germane (§ 33, infra), a title of a bill which amends several laws to address a variety of authorities of an executive department may be broad enough to admit as germane an amendment changing another existing law to add another authority of that department within the same general class. 123 CONG. REC. 24570, 95th Cong. 1st Sess., July 22, 1977 [H.R. 7171].

§ 28.35 To an Interstate and Foreign Commerce Committee amendment in the nature of a substitute amending several sections of the Clean Air Act to permit limited variances from environmental requirements—including the temporary suspension of certain emission standards imposed upon automobile manufacturers—an amendment imposing certain restrictions on emissions only for new automobiles in designated geographic areas, and withdrawing state entitlements to federal assistance under that act or under the Federal Water Pollution Control Act (within the jurisdiction of the Committee on Public Works)

for failure to comply with those standards, was held to go beyond the scope of the proposition to which offered and was ruled out as not germane. 120 CONG. REC. 12520, 12522-24, 93d Cong. 2d Sess., May 1, 1974 [H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974].

§ 28.36 To a bill amending several sections of the Regional Rail Reorganization Act of 1973, an amendment to a section of that act not mentioned in the bill, relating to congressional disapproval of reorganization plans, but germane to that section, was held germane to the bill. 121 CONG. REC. 3596, 94th Cong. 1st Sess., Feb. 19, 1975 [H.R. 2051].

§ 28.37 To a bill amending a law dealing with several subjects within a definable class, an amendment further amending that law to add another subject within the same class is germane. 121 CONG. REC. 7652, 94th Cong. 1st Sess., Mar. 20, 1975 [H.R. 4296, emergency price supports for 1975 crops]; 122 CONG. REC. 13530, 94th Cong. 2d Sess., May 12, 1976 [H.R. 12851, to amend the Higher Education Act of 1965].

§ 28.38 An amendment narrowly amending one portion of an existing law does not necessarily open up other portions of the law to amendment; but where a pending proposition has the effect of changing the operation of another portion of that law, it may be amended by adding exceptions and definitions modifying its effect on that portion of law if related to the same subject. 123 CONG. REC. 32608, 95th Cong. 1st Sess., Oct. 6, 1977 [H.R. 8410].

§ 28.39 Where a bill amends existing law relating to a certain subject in several diverse respects, additional amendments germane to that subject of the law may be germane to the bill. 121 CONG. REC. 8934, 94th Cong. 1st Sess., Mar. 26, 1975 [conf. rept. on H.R. 2166].

§ 28.40 To a narrowly drafted bill designed to amend section 8 of the National Labor Relations Act, dealing with unfair labor practices, to permit common-situs picketing under certain circumstances, an amendment further qualifying the right to so picket and providing a civil remedy for persons injured by illegal pickets was ruled out as not germane as beyond the scope of the bill; in so ruling, the Chairman noted that the law itself provided remedies for unfair labor practices in another section and that the bill was not sufficiently broad to admit as germane amendments relating to that section. 121 CONG. REC. 24841, 94th Cong. 1st Sess., July 25, 1975 [H.R. 5900].

§ 28.41 A proposition amending a subsection of the Postal Reorganization Act in several diverse respects, considered as read and open to amendment at any point by unanimous consent, was considered sufficiently comprehensive in scope to admit as germane an amendment to another subsection of that act rendering the entire Postal Service operation subject to the annual appropriation process, although the section of the proposition to which offered contained an annual authorization only for a limited (public service) aspect of the Postal Service operation. 121 CONG. REC. 30768, 94th Cong. 1st Sess., Sept. 29, 1975 [H.R. 8630].

§ 28.42 Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends upon its relationship to the subject of the bill and not to the entire law being amended. 121 CONG. REC. 34037, 94th Cong. 1st Sess., Oct. 28, 1975 [H.R. 6227].

§ 28.43 To a bill amending a section of title 5 of the United States Code granting certain rights to employees of executive agencies of the federal government, an amendment extending those rights to other (legislative branch) employees as defined in a different section of that title was held beyond the scope of the bill and was ruled out as not germane.

121 CONG. REC. 34037, 94th Cong. 1st Sess., Oct. 28, 1975 [H.R. 6227].

§ 28.44 To a House bill containing diverse amendments to existing laws within the jurisdiction of the Committee on International Relations relating to foreign relations and the operation of the Department of State and related agencies, a portion of the Senate amendment thereto (contained in a conference report) amending the Foreign Gifts and Decorations Act, also within the jurisdiction of that committee, to provide guidelines and procedures for the acceptance of foreign gifts by U.S. employees and to provide that the House Committee on Standards of Official Conduct adopt regulations governing acceptance by Members and House employees of foreign gifts, was held germane. 123 CONG. REC. 26533, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 6689]. *Note:* It was contended that the provision had the effect of amending the rules of the House (to allow the acceptance of gifts prohibited by Rule XLIII, the Code of Official Conduct). However, the effect of the provision was only to vest by law the regulatory authority under the act in relation to the House, not to supersede a more restrictive standard imposed by the rules.

§ 29. Amendments Repealing Existing Law to Bills Amending That Law

§ 29.1 To a bill amending existing law in a limited respect, an amendment repealing the law is not germane. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964; 110 CONG. REC. 423, 88th Cong. 2d Sess., Jan. 14, 1964.

§ 29.2 To a bill establishing a new office within a government department, an amendment to abolish the department is not germane. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964.

§ 29.3 To a bill establishing a new Office of Law Enforcement and Criminal Justice within the Department of Justice, an amendment abolishing the Department of Justice and transferring its powers and functions to a new independent agency was ruled out as not germane. 113 CONG. REC. 21845, 90th Cong. 1st Sess., Aug. 8, 1967.

§ 29.4 To a bill referring to certain provisions of existing law, an amendment repealing a portion of that law was held not germane. 115 CONG. REC. 29972, 91st Cong. 1st Sess., Oct. 14, 1969.

§ 29.5 To a bill amending a law in one particular, an amendment repealing the law is not germane. 110 CONG. REC. 423, 88th Cong. 2d Sess., Jan. 14, 1964.

§ 29.6 To a bill amending a single aspect of that agricultural law relating to the transfer of rice acreage allotments, an amendment to repeal the entire provision of law regulating such transfers was ruled out as not germane. 110 CONG. REC. 423, 88th Cong. 2d Sess., Jan. 14, 1964.

§ 29.7 To a joint resolution renaming the National Cultural Center as the John F. Kennedy Center for the Performing Arts and authorizing an appropriation for such center, an amendment repealing the National Cultural Center Act and redirecting funds received under the act, and directing the Secretary of the Interior to construct the center from funds authorized in the amendment, was ruled out as not germane. 110 CONG. REC. 143, 88th Cong. 2d Sess., Jan. 8, 1964.

§ 29.8 To a bill narrowly amending one subsection of existing law to modify prohibitions against former executive branch employees appearing before their former employing agency for a certain time on matters within their former responsibility (further narrowed by amendment to strike proposed changes in another subsection of that law relating to cov-

erage of categories of former officials under the entire law), an amendment to a third subsection of that section of law to repeal a separate prohibition against appearances by former senior executive officials irrespective of the subject matter of the appearance or communication, was held not germane to the bill as perfected by amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [S. 869].

§ 29.9 An amendment repealing authority under any provision of law is not germane to a bill amending only one law with respect to that authority. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930]. In this instance, to a bill amending the Defense Production Act to promote the development of synthetic fuels for defense purposes, and authorizing loans and contracts to assist such development, an amendment repealing authority under the Defense Production Act and under any other law to impose allocation and price controls on petroleum and natural gas was held not germane.

§ 30. Amendments to Bills Which Repeal Existing Law

§ 30.1 To a bill repealing a provision of existing law, an amendment of that law is not necessarily germane. 111 CONG. REC. 18636, 89th Cong. 1st Sess., July 28, 1965.

§ 30.2 Where a bill repeals a provision of law, an amendment modifying that provision rather than repealing it may be germane; but the modification must relate to the provision of law being repealed. 115 CONG. REC. 32466, 91st Cong. 1st Sess., Oct. 30, 1969.

§ 30.3 To a bill consisting of two sections, the first stating the title of the bill, the second repealing a narrow provision of an existing act, an amendment inserting a statement of congressional policy applicable not only to the pending bill but to the administration of the whole act is not germane. 115 CONG. REC. 32465, 91st Cong. 1st Sess., Oct. 30, 1969.

§ 30.4 To a bill repealing a provision of existing labor law, thereby depriving the states of the power to prohibit "closed shop contracts", an amendment modifying the provision of law, to permit states to retain the power to bar the application of "closed shop" agreements to veterans of military service, was ruled out as not germane. 111 CONG. REC. 18636, 89th Cong. 1st Sess., July 28, 1965.

§ 30.5 To a bill repealing a provision of existing labor law, thereby depriving the states of the power to prohibit "closed shops," an amendment permitting the states to retain the power to prohibit such shops but authorizing labor organizations to enter into agreements requiring nonunion members to pay an agency fee for collective bargaining representation, was held not to be germane. 111 CONG. REC. 18637, 89th Cong. 1st Sess., July 28, 1965.

§ 30.6 To a bill repealing one narrow subsection of existing law, an amendment proposing a comprehensive revision of the whole law in question was conceded not to be germane and was ruled out on a point of order. 115 CONG. REC. 32464, 91st Cong. 1st Sess., Oct. 30, 1969.

§ 30.7 To a bill repealing a narrow subsection of law relating to the order of induction of selective service registrants, an amendment modifying that subsection of law for the purpose of placing restrictions on the assignment of personnel to Vietnam without their consent was ruled out as not germane. 115 CONG. REC. 32466, 91st Cong. 1st Sess., Oct. 30, 1969.

§ 30.8 To a bill repealing one subsection of the Selective Service Act relating to the President's authority to determine the relative order of induction for selective service registrants within certain age groups, an amendment inserting in the bill a statement of congressional policy concerning the application of

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the whole of the Selective Service Act was ruled out as not germane. 115 CONG. REC. 32465, 91st Cong. 1st Sess., Oct. 30, 1969.

§ 31. Amendments to Bills Extending Existing Law

§ 31.1 To a bill extending an existing law, an amendment modifying the law may be germane. 109 CONG. REC. 20728, 88th Cong. 1st Sess., Oct. 31, 1963. An amendment germane to an existing law may be germane to a bill proposing re-enactment of that law. In one instance, for example, a bill extending an existing law and continuing an agency was amended in a germane manner by an amendment modifying the provisions of the law being extended. 122 CONG. REC. 16025, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169]. On the other hand, where a bill authorized appropriations for an agency for one year, but did not amend the organic law which created that agency, an amendment to that law extending the existence of an entity referred to in the pending bill was ruled out as not germane. 122 CONG. REC. 14913, 94th Cong. 2d Sess., May 20, 1976 [H.R. 13350].

§ 31.2 To a bill extending an existing law in modified form, an amendment proposing further modification of the law is germane. 115 CONG. REC. 10067, 91st Cong. 1st Sess., Apr. 23, 1969.

§ 31.3 While a bill "extending existing law" may open up the law being extended to germane amendments, a proposition which merely extends an official's authority under that law does not necessarily open up the basic law to amendment. 115 CONG. REC. 27342, 91st Cong. 1st Sess., Sept. 29, 1969. In this instance, to a bill temporarily extending an official's authority under existing law, an amendment permanently amending that law was held not germane.

§ 31.4 To a bill expanding the war on poverty by amending and increasing the authorizations contained in the Economic Opportunity Act of 1964, an amendment reactivating a program, which had been contained in the original act but had expired, providing for certain indemnity payments to dairy farmers, was ruled out as not germane. 111 CONG. REC. 17949, 89th Cong. 1st Sess., July 22, 1965.

§ 31.5 To a bill continuing for one year the Mexican farm labor program, an amendment modifying the program by requiring the Secretary of Labor to determine that reasonable efforts have been made to hire domestic workers under working conditions comparable in specified instances to those provided to foreign workers was held to be germane. 109 CONG. REC. 20728, 88th Cong. 1st Sess., Oct. 31, 1963.

§ 31.6 An amendment providing a new and comprehensive food-stamp plan for the distribution of surplus products was held to be germane to a bill amending the Agricultural Trade Development and Assistance Act of 1954, where the 1954 Act had authorized the Commodity Credit Corporation to make surplus agricultural products available for needy persons in the United States. 105 CONG. REC. 16567, 86th Cong. 1st Sess., Aug. 20, 1959.

§ 31.7 To a bill extending the school milk program and establishing a school breakfast program, and making "preschool programs operated as part of the school system" eligible for benefits under the programs, an amendment further extending such benefits to programs operated by nonprofit institutions in depressed areas, was ruled out as not germane. 112 CONG. REC. 21656, 89th Cong. 2d Sess., Sept. 1, 1966.

§ 31.8 To a bill amending and extending the Elementary and Secondary Education Act, an amendment proposing further modification of that act to provide that no funds appropriated pursuant to the act be used for the transporta-

tion of students or teachers "in order to meet provisions of" the Civil Rights Act of 1964 was held to be germane. 115 CONG. REC. 10067, 91st Cong. 1st Sess., Apr. 23, 1969.

§ 31.9 To a bill extending the authority of the Administrator of Veterans' Affairs to establish a maximum interest rate for insured loans to veterans, an amendment materially altering provisions of existing law and modifying the authority of the administrator with respect to management of the loan program was ruled out as not germane. 115 CONG. REC. 27342, 91st Cong. 1st Sess., Sept. 29, 1969.

§ 31.10 A bill authorizing appropriations to an agency for one year but not amending the organic law by extending the existence of that agency does not necessarily open up that law to amendments which are not directly related to a subject contained in the bill. 122 CONG. REC. 14913, 94th Cong. 2d Sess., May 20, 1976.

§ 31.11 A bill continuing and re-enacting an existing law may be amended by a proposition modifying in a germane manner the provisions of the law being extended. 122 CONG. REC. 16025, 94th Cong. 2d Sess., June 1, 1976. For application of the same principle, see 122 CONG. REC. 16046, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169].

§ 31.12 To a bill re-enacting a law to extend the existence of the Federal Energy Administration (which agency under that law would otherwise terminate with a consequent transfer of its functions to other agencies), an amendment in the nature of a substitute abolishing the agency and some of its functions and transferring other functions to existing agencies was held germane as another reorganization proposal closely related to that contained in the law being amended. 122 CONG. REC. 16025, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169].

§ 31.13 To a bill re-enacting a law to extend the existence of the Federal Energy Administration, including the authority under a section of that law for the Administrator to conduct energy programs delegated to him, an amendment to that section of the law restricting the method of submitting energy action proposals to Congress was held to be a limitation on discretionary authority conferred in that law, and therefore germane to the bill. 122 CONG. REC. 16046, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169].

§ 31.14 To a bill extending the existence of the Federal Energy Administration and authorizing appropriations for that agency, an amendment requiring that agency to promulgate regulations to assure that the agency hearings funded by the bill would be conducted in the areas to be affected by that agency's actions, was held germane as a restriction on the use of funds authorized by the bill. 122 CONG. REC. 16058, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169].

§ 32. Amendments Changing Existing Law to Bills Citing or Making Minor Revisions in That Law

§ 32.1 To a bill making a minor revision in one part of an existing law to accomplish a particular purpose, an amendment proposing changes elsewhere in that law that are not within the terms of the bill is not germane. See 117 CONG. REC. 12318, 92d Cong. 1st Sess., Apr. 28, 1971. A bill narrowly amending one portion of a section of existing law for a single purpose does not necessarily open the entire section to amendment. Thus, in one instance, to a bill narrowly amending one subsection of existing law dealing with one specific criminal activity, an amendment postponing the effective date of the entire section thereby affecting other criminal provisions and other classes of persons was held not germane. 125 CONG.

REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [S. 869].

§ 32.2 To a bill repealing a part of the National Labor Relations Act and making conforming changes in related laws in order to permit employers and labor unions to enter into union shop agreements under some conditions, an amendment affecting another part of the act and pertaining to union elections and bargaining representation was ruled out as not germane to the bill. 111 CONG. REC. 18633, 89th Cong. 1st Sess., July 28, 1965.

§ 32.3 To a bill repealing a part of the National Labor Relations Act and making conforming changes in two related sections of labor law, but having as its sole purpose the enunciation of the right of employers and labor unions to enter into union shop agreements under certain conditions, an amendment was held not to be germane which sought to make any such agreement inapplicable to members of certain religious organizations. 111 CONG. REC. 18631, 89th Cong. 1st Sess., July 28, 1965.

§ 32.4 To a bill repealing parts of the National Labor Relations Act and the Labor Management and Disclosure Act and amending a part of the National Labor Relations Act for the purpose of establishing a uniform federal rule governing union security agreements, an amendment modifying one of the sections of law in question to require that the selection of a labor organization bargaining unit be by secret ballot was held not to be germane. 111 CONG. REC. 18645, 89th Cong. 1st Sess., July 28, 1965.

§ 32.5 To a bill repealing a part of one law and making conforming changes in related laws for purposes of permitting employers and labor unions to enter into union shop agreements under some conditions, an amendment in the nature of a substitute proposing to modify the same portions of existing law in respects beyond the scope of the bill was held not to be germane. 111 CONG. REC. 18634, 89th Cong. 1st Sess., July 28, 1965.

§ 32.6 To a substitute amendment proposing to modify several banking acts with respect to interest rates, and to amend in a limited way a part of the Federal Deposit Insurance Act, an amendment proposing further amendment of the Federal Deposit Insurance Act was held not to be germane. 112 CONG. REC. 22043, 89th Cong. 2d Sess., Sept. 8, 1966.

§ 32.7 To a bill amending several laws concerning the general subject of agriculture, including one section of the Soil Conservation and Domestic Allotment Act, an amendment further relating to that section of the act was held to be germane. 107 CONG. REC. 13770, 87th Cong. 1st Sess., July 27, 1961; 108 CONG. REC. 11211, 87th Cong. 2d Sess., June 20, 1962.

§ 32.8 To a bill amending several laws relating to civil rights, including one title of the Civil Rights Act of 1964, an amendment further modifying such act was held to be germane. 112 CONG. REC. 18728, 89th Cong. 2d Sess., Aug. 9, 1966.

§ 32.9 To a bill proscribing interference with certain civil rights and amending one section of existing law to increase the penalty for depriving, under color of law, an individual of constitutional rights, an amendment was held not to be germane which sought to enlarge the scope of existing law to include protection of individuals against such deprivation of their rights as might result from actions of the United Nations. 113 CONG. REC. 22768, 90th Cong. 1st Sess., Aug. 16, 1967.

§ 32.10 To a bill relating to assistance for localities in controlling crime, which proposed to amend the Omnibus Crime Control and Safe Streets Act of 1968 and to effect administrative changes through amendment of the appropriate title of the United States Code, an amendment was held not to be germane which

proposed through modification of another part of that title to extend certain benefits under the Federal Employee's Compensation Act to "public safety officers" and their survivors. 116 CONG. REC. 21870, 91st Cong. 2d Sess., June 29, 1970.

§ 32.11 An amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related. 118 CONG. REC. 9188, 9190, 92d Cong. 2d Sess., Mar. 21, 1972.

§ 32.12 To a bill authorizing the Secretary of the Treasury to establish a new par value of the dollar in relation to gold as the standard for issuing gold certificates under section 14(c) of the Gold Reserve Act of 1934, an amendment repealing other sections of that act to permit United States citizens to purchase and hold gold was held not germane. 118 CONG. REC. 9188, 9190, 92d Cong. 2d Sess., Mar. 21, 1972.

§ 32.13 To a bill reported from the Committee on Merchant Marine and Fisheries providing a comprehensive program for the management and development of land and water in the Nation's coastal zone, including requirements for certification of federal land use activities as compatible with approved state management programs and incorporating by reference certain provisions in statutes within the jurisdiction of other committees, an amendment applying the procedures contained in those statutes to approval of such federal land use programs in lieu of the certification procedures in the committee bill was held germane. 118 CONG. REC. 26487, 26493, 92d Cong. 2d Sess., Aug. 2, 1972.

§ 32.14 A bill seeking to regulate certain activities of all federal agencies and incorporating by reference procedural requirements contained in other acts may be broad enough in scope to permit an amendment similarly referring to, but not directly amending, other statutes and intended to accomplish the result sought to be effected by the portion of the bill to which offered. 118 CONG. REC. 26487, 26493, 92d Cong. 2d Sess., Aug. 2, 1972.

§ 32.15 To a District of Columbia Committee amendment in the nature of a substitute creating a support fund to finance the construction and operation of the Eisenhower Civic Center, to be funded in part by the transfer of appropriations authorized for that project in a law reported by the Committee on Public Works, an amendment repealing that portion of the law authorizing the federal share for construction was held germane. 120 CONG. REC. 10108-10, 93d Cong. 2d Sess., Apr. 8, 1974 [H.R. 12473].

§ 32.16 While as a general rule an amendment to a law which had been reported from one committee is not germane to a bill reported from another committee, where the pending bill incorporates by reference provisions of a law from another committee and conditions the bill's effectiveness upon actions taken pursuant to a section of that law, an amendment to alter that section of the law may be germane. 120 CONG. REC. 10108-10, 93d Cong. 2d Sess., Apr. 8, 1974 [H.R. 12473].

§ 32.17 To a bill citing but not amending a law on another subject, an amendment incorporating that law by reference to broaden its application to the subject of the bill is not germane. 124 CONG. REC. 33818, 95th Cong. 2d Sess., Oct. 5, 1978 [H.R. 13471]. In this instance, to a title of a bill regulating financial institutions, referring to but not amending the Clayton Act, an amendment providing that the provisions of that title (relating to interlocking directorates) are deemed to be provisions of the Clayton Act, and authorizing the Attorney General to prosecute violations of such provisions in the same manner, and with the same authority, as under the Clayton Act, was held not germane.

§ 33. Amendments Changing Existing Law to Bills Not Citing That Law

§ 33.1 Generally, to a bill amending one existing law, an amendment changing the provisions of another law is not germane. Thus, to a bill reported from the Committee on Education and Labor and amending the Fair Labor Standards Act, an amendment proposing to modify the Tariff Act of 1930, which was a matter within the jurisdiction of the Committee on Ways and Means, was held not germane. 113 CONG. REC. 27214, 90th Cong. 1st Sess., Sept. 28, 1967. Similarly, to a bill amending the Foreign Assistance Act of 1961, to provide authorizations for the foreign aid program, an amendment pertaining to trade agreement concessions with Poland, proposing changes in the Foreign Assistance Act of 1963, and affecting the Trade Expansion Act of 1962, was ruled out as not germane. 114 CONG. REC. 22109, 90th Cong. 2d Sess., July 18, 1968. However, the germaneness of such an amendment may be effected by other amendments which broaden the scope of the pending bill. For example, to a bill authorizing foreign military assistance, broadened in scope by amendment to address permanent law relating to economic relations with foreign nations, foreign policy issues, and congressional foreign travel, an amendment to remove military and economic trade sanctions against Rhodesia was held germane to the bill as a whole in its perfected form. 124 CONG. REC. 23938, 95th Cong. 2d Sess., Aug. 2, 1978 [H.R. 12514].

§ 33.2 To a bill amending two sections of the Fair Labor Standards Act and concerned with certain effects of imports on the domestic labor market, an amendment proposing changes in the Tariff Act of 1930 and concerned with the importation of merchandise from Communist nations, was ruled out as not germane. 113 CONG. REC. 27214, 90th Cong. 1st Sess., Sept. 28, 1967.

§ 33.3 To a bill amending the Agricultural Adjustment Acts of 1938 and 1949 to provide in part for market adjustment and price support programs for wheat and feed grains, an amendment proposing modification of the Agricultural Adjustment Act of 1933 to direct the President under certain conditions to conduct an investigation into imports of specified agricultural products was ruled out as not germane. 106 CONG. REC. 14060, 86th Cong. 2d Sess., June 23, 1960.

§ 33.4 To a bill making appropriations for the current fiscal year, an amendment permanently changing existing law was held not germane to the bill, and thus was not in order even though it tended to reduce expenditures for that year. 115 CONG. REC. 13269, 91st Cong. 1st Sess., May 21, 1969. Germaneness of amendments to appropriation bills, see § 11 supra.

§ 33.5 To a committee amendment in the nature of a substitute comprising in part general provisions relating to the organization of the District of Columbia government as well as amendments to several revenue provisions of the District of Columbia Code, a proposed substitute making comparable amendments to the revenue laws of the District of Columbia but also amending portions of the code not affected by the committee amendment was held to be germane. 115 CONG. REC. 23126-23129, 91st Cong. 1st Sess., Aug. 11, 1969.

§ 33.6 To a bill providing in part for increased salaries for Members of Congress and legislative employees, an amendment proposing changes in the Accounting and Auditing Act and relating to procedures governing audits of financial transactions of the House of Representatives and the Architect of the Capitol was ruled out as not germane. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964.

§ 33.7 To a bill amending the Immigration and Naturalization Act to make it unlawful to knowingly hire illegal aliens, an amendment adding a new subsection to that act to require officers and employees of the Department of Health, Education, and Welfare, notwithstanding provisions of the Social Security Act, to disclose to the Immigration Service the names and addresses of aliens now lawfully in the United States who are receiving certain assistance under the Social Security Act was held to affect provisions of law and federal officials not covered by the bill and was ruled out as not germane. 118 CONG. REC. 30173-76, 92d Cong. 2d Sess., Sept. 12, 1972.

§ 33.8 To a portion of an amendment in the nature of a substitute regulating the importation of liquefied natural gas, but not directly amending the Natural Gas Act, an amendment to the Natural Gas Act to prohibit the Federal Power Commission from regulating the price of natural gas at the well-head was held not germane. 119 CONG. REC. 41723-25, 93d Cong. 1st Sess., Dec. 14, 1973.

§ 33.9 To a section of a bill reported from the Committee on Government Operations prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law," an amendment to the Emergency Petroleum Allocation Act (an act reported from the Committee on Interstate and Foreign Commerce and not otherwise amended by the bill) establishing specific price ceilings for petroleum products was held not germane. 120 CONG. REC. 5306-09, 93d Cong. 2d Sess., Mar. 5, 1974 [H.R. 11793].

§ 33.10 To a bill consolidating certain existing governmental functions under a new agency, amended to limit the policy-making authority of that agency to that contained in existing law, an amendment prescribing new policy by amending a law not amended by the bill is not germane. 120 CONG. REC. 5306-09, 93d Cong. 2d Sess., Mar. 5, 1974 [H.R. 11793].

§ 33.11 While a proposition reorganizing existing discretionary governmental authority under a new agency may be amended by imposing limitations on the exercise of those functions, an amendment directly changing policies in the substantive law to be administered by that agency is not germane. 120 CONG. REC. 5433-36, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 33.12 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law," an amendment prescribing guidelines to be followed by the administrator in establishing prices for petroleum, thereby limiting the discretionary authority conferred in that section, but also directly imposing price ceilings on petroleum products where the administrator had not exercised his pricing authority pursuant to those guidelines, was held to directly change substantive law and was ruled out as not germane. 120 CONG. REC. 5433-36, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 33.13 To a bill reported from the Committee on Government Operations establishing a Federal Energy Administration but not amending existing laws relating to energy conservation policy, an amendment repealing the Emergency Daylight Saving Time Energy Conservation Act (reported from the Committee on Interstate and Foreign Commerce) was held not germane. 120 CONG. REC. 5653, 5654, 93d Cong. 2d Sess., Mar. 7, 1974 [H.R. 11793].

§ 33.14 An amendment repealing existing law has been held not germane to a bill not amending that law. 120 CONG. REC. 5653, 5654, 93d Cong. 2d Sess., Mar. 7, 1974 [H.R. 11793].

§ 33.15 To a portion of an amendment in the nature of a substitute providing that use of the contingent fund for committee investigations be confined to travel in the United States and that no appropriated funds be expended for committee expenses outside the United States where local currencies are available, an amendment providing that "notwithstanding any other provision of law, no part of any appropriation and no local currency . . ." shall be available to pay any expenses in connection with travel by retiring Members outside the United States, was ruled out as not germane, since it waived provisions of law not necessarily related to House committee travel. 120 CONG. REC. 34463, 34464, 93d Cong. 2d Sess., Oct. 8, 1974 [H. Res. 988].

§ 33.16 To a bill temporarily amending for one year an existing law establishing price supports for several agricultural commodities, an amendment waiving the provisions of another law relating to price supports for another agricultural commodity was construed to directly change a law not amended by the pending bill and thus to include a commodity outside the class of those covered by the bill and was ruled out as not germane. 121 CONG. REC. 7667, 94th Cong. 1st Sess., Mar. 20, 1975 [H.R. 4296]. *Note:* The amendment contained the language "notwithstanding any other provision of law" which had the effect of amending a statute not amended by the bill. Absent the reference to other law, an amendment merely adding another commodity (rice) to the category of commodities covered by the 1949 Agricultural Act for the same crop year covered by the bill would have been germane.

§ 33.17 For an amendment establishing procedures for designating priority projects within a federally financed synthetic fuels program and expediting procedural decision-making deadlines, but not waiving substantive laws interfering with completion of those projects, a substitute amendment authorizing the President to waive *any* provision of law (if not disapproved by Congress) inconsistent with the construction of synthetic fuel projects was held not germane as a prospective temporary repeal of substantive laws within the jurisdiction of other committees and beyond the narrow class of procedural waivers in the original amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930]. *Note:* The Chair quoted with approval the precedent of March 20, 1975, above, where an amendment waiving the provisions of another law was ruled out as directly changing a law not amended by the pending bill. In the instant case, the Chair noted that the waivers in the amendment to the bill and in the bill and statute itself were waivers of a narrow class of existing laws, whereas the substitute amendment waived various unspecified laws not within the scope of the pending measure.

§ 33.18 To an amendment requiring registration and public disclosure by lobbyists before Congress and the executive branch and providing civil penalties for failure to so register and disclose, an amendment applying the same sanctions to persons having the privilege of the floor of the House and violating the prohibition in the House rules against lobbying on the floor or in adjacent rooms is in effect a change in the rules of the House and is not germane. 122 CONG. REC. 33088, 94th Cong. 2d Sess., Sept. 28, 1976 [H.R. 15].

§ 33.19 To a title of an omnibus agricultural bill dealing with a number of unrelated authorities of the Secretary of Agriculture as to crop set-asides, loans and sales, export sales, price supports, and importation and allotment studies, an amendment amending the Agricultural Marketing Act of 1946 (not amended by the title) to require the Secretary to adopt a minimum standard for the contents of ice cream, and allowing only such ice cream as meets those standards to bear a USDA stamp of approval, was held germane. 123 CONG. REC. 24570, 95th Cong. 1st Sess., July 22, 1977

[H.R. 7171]. *Note:* If the amendment had contained a prohibition on the marketing of ice cream unless it met a certain standard, a different germaneness question would have been presented because of the jurisdiction of another committee (Interstate and Foreign Commerce) over the regulation of food standards in commerce. As offered, the amendment set a standard for the Department of Agriculture but provided no regulatory authority over processed foods.

§ 33.20 To a bill amending the Endangered Species Act to establish new procedures for determining the extent of protection to be accorded to endangered species by permitting exemptions for qualifying economic development projects, an amendment waiving the provisions of that act, as well as other statutes, to permit construction of certain public works projects and requiring modifications of those projects by federal officials whose authorities were not addressed by the pending bill, was ruled out as nongermane since broadening the authority of agencies not directly covered by the bill. In this instance, an amendment containing the same provisions as the amendment referred to above, and differing only in that it omitted the citations to other environmental acts, was also ruled out as nongermane on the same grounds. Still another amendment was held germane where it was limited to a waiver only of the Endangered Species Act with respect to a specific federal project. 124 CONG. REC. 38141, 38143, 38144, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 14014]. For a related precedent, see § 5.18, supra.

§ 33.21 To a House bill narrowly amending the Small Business Act reported from the Committee on Small Business, a Senate amendment adding a new title providing for the payment of attorney fees and other court expenses to parties prevailing against the United States in any court litigation and amending title 28 (within the jurisdiction of the Committee on the Judiciary) was held not germane (pending a motion to recede and concur in the Senate amendment with an amendment including such provisions, after the conference report on the bill had been ruled out of order). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [H.R. 5612].

§ 33.22 A point of order on the grounds of germaneness against an amendment to a budget resolution stating the sense of Congress that the appropriate committees of the House and the Senate should make in order, as part of any continuing appropriation bill for fiscal year 1981, language repealing the Impoundment Control Act of 1974, was conceded and sustained. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Nov. 18, 1980 [H. Con. Res. 448].

F. PROCEDURAL MATTERS

§ 34. Generally; Points of Order and Debate Thereon

§ 34.1 The Chairman may decline to hear further debate with regard to a point of order on which he has ruled. 114 CONG. REC. 5426, 90th Cong. 2d Sess., Mar. 6, 1968.

§ 34.2 The burden of proof of the germaneness of an amendment rests upon the proponent (108 CONG. REC. 13431, 87th Cong. 2d Sess., July 12, 1962); and where an amendment is equally susceptible to more than one interpretation, and the proponent fails to carry the burden of showing the applicability of that interpretation under which the amendment can be upheld, the Chairman may rule it out of order. 121 CONG. REC. 19967, 94th Cong. 1st Sess., June 20, 1975 [H.R. 3474].

§ 34.3 If a point of order is reserved against an amendment, the proponent may speak on the merits of the amendment and respond subsequently to the point of order. 113 CONG.

REC. 24002, 90th Cong. 1st Sess., Aug. 24, 1967.

§ 34.4 Debate on a point of order against an amendment is limited to the question of order and may not go to the merits of the amendment. 113 CONG. REC. 19412, 90th Cong. 1st Sess., July 19, 1967.

§ 34.5 Debate on the point of order of the germaneness of an amendment must be confined to the question of germaneness and cannot go to the merits of the amendment. 118 CONG. REC. 29588, 92d Cong. 2d Sess., Sept. 6, 1972.

§ 34.6 Reservation of a point of order against an amendment or the continuation of such a reservation after some debate on the amendment may be permitted by leave of the Committee of the Whole, but the Chair may demand that the point of order be disposed of prior to (further) debate on the amendment. 119 CONG. REC. 10395, 10396, 93d Cong. 1st Sess., Apr. 4, 1973.

§ 34.7 A point of order having been sustained against a nongermane portion of a committee amendment in the nature of a substitute, the Chair directed the Clerk to read the substitute without the nongermane portion as original text for amendment, pursuant to a special rule permitting such procedure. 124 CONG. REC. 15294, 95th Cong. 2d Sess., May 24, 1978 [H.R. 10929].

§ 35. Timeliness of Point of Order

§ 35.1 The general rule is that a point of order against an amendment as not germane must be made or reserved immediately after the amendment is read and comes too late once debate has been had on the amendment. 122 CONG. REC. 2390, 94th Cong. 2d Sess., Feb. 4, 1976; 123 CONG. REC. 34217, 95th Cong. 1st sess., Oct. 19, 1977. The point of order against the amendment must be raised prior to debate thereon and comes too late if the proponent has commenced his remarks. 121 CONG. REC. 19073, 94th Cong. 1st Sess., June 16, 1975 [H.R. 7545]. The rereading of the amendment by unanimous consent after there has been debate does not permit the intervention of a point of order against the amendment. 117 CONG. REC. 39302, 92d Cong. 1st Sess., Nov. 4, 1971. However, the Chair may entertain a point of order against the amendment by a Member who states that he had been on his feet, seeking recognition for that purpose, when the debate began (113 CONG. REC. 26878, 90th Cong. 1st Sess., Sept. 26, 1967), and in this event, the point of order against the amendment is not precluded by the Chair's prior recognition of the Member offering the amendment. 106 CONG. REC. 6381, 86th Cong. 2d Sess., Mar. 23, 1960.

§ 35.2 A point of order against an amendment does not come too late where the Member raising the question was on his feet seeking recognition at the time the amendment was read. 115 CONG. REC. 27351, 91st Cong. 1st Sess., Sept. 29, 1969.

§ 35.3 Where one point of order is made against an amendment and overruled, another can be raised although the proponent thereof was not on his feet at the time the first point of order was made. 115 CONG. REC. 27351, 91st Cong. 1st Sess., Sept. 29, 1969.

§ 35.4 The reservation of a point of order by one Member does not preclude another from pressing a point of order. 113 CONG. REC. 19412, 90th Cong. 1st Sess., July 19, 1967.

§ 35.5 A point of order against a motion to recommit with instructions has been made prior to completion of the reading of such motion where the matter contained in the instructions had been ruled out as not germane when offered as an amendment in the Committee of the Whole. 113 CONG. REC. 5155, 90th Cong. 1st Sess., Mar. 2, 1967.

§ 35.6 A point of order that a motion to recommit with instructions is not germane to the bill comes too late after the proponent of the motion has been recognized for five minutes of debate in the House and has yielded for a parliamentary inquiry. 117 CONG. REC. 17491–95, 92d Cong. 1st Sess., June 2, 1971.

§ 35.7 Where a committee amendment in the nature of a substitute is being read as an original bill for amendment by title, a point of order that the committee amendment is not germane to the original bill may be raised following the reading of the first title of the committee amendment. 119 CONG. REC. 27673–75, 93d Cong. 1st Sess., Aug. 2, 1973.

§ 35.8 A point of order against the germaneness of an amendment must be made immediately following the reading and prior to consideration, and where points of order have been waived against a specific amendment which has then been altered by amendment, a point of order will not lie against the amendment on the ground that, as modified, it does not come within the coverage of the waiver. 121 CONG. REC. 23990, 94th Cong. 1st Sess., July 22, 1975 [H.R. 7014].

§ 35.9 A point of order against the germaneness of an amendment must be made or reserved immediately after the amendment is read and comes too late after the proponent of the amendment has been recognized and permitted to revise and extend his remarks. 121 CONG. REC. 28937, 94th Cong. 1st Sess., Sept. 17, 1975 [H.R. 7014].

§ 36. Waiver of Points of Order; Effect on Germaneness Requirement

§ 36.1 The issue of germaneness cannot be raised against an amendment when all points of order against that amendment have specifically been waived. 110 CONG. REC. 2738, 88th Cong. 2d Sess., Feb. 10, 1964.

§ 36.2 Waiver of points of order against the text of a bill, by adoption of the resolution making its consideration a special order of business, does not vitiate the rule that amendments from the floor must be germane. 109 CONG. REC. 15608, 88th Cong. 1st Sess., Aug. 22, 1963.

§ 36.3 A resolution providing for consideration of a bill may waive points of order against nongermane committee amendments, whether the resolution provides for an *open rule* (see H. Res. 471, 113 CONG. REC. 12621, 90th Cong. 1st Sess., May 15, 1967; H. Res. 540, 119 CONG. REC. 29677, 29678, 93d Cong. 1st Sess., Sept. 13, 1973; H. Res. 1190, 124 CONG. REC. 14878, 95th Cong. 2d Sess., May 22, 1978) or a *closed rule* (see H. Res. 1005, 112 CONG. REC. 22209, 89th Cong. 2d Sess., Sept. 12, 1966).

§ 36.4 A legislative provision in a general appropriation bill, permitted to remain pursuant to a resolution waiving points of order against the bill, may be perfected by germane amendment. 113 CONG. REC. 32886, 90th Cong. 1st Sess., Nov. 16, 1967; 115 CONG. REC. 13271, 91st Cong. 1st Sess., May 21, 1969. But such amendment may not contain additional legislation. 113 CONG. REC. 32968, 90th Cong. 1st Sess., Nov. 17, 1967.

§ 36.5 Where a bill is being considered under the provisions of a resolution which specified that committee amendments shall be in order, "any rule of the House to the contrary notwithstanding," no issue can properly be raised as to the germaneness of any such amendment. 106 CONG. REC. 10575, 86th Cong. 2d Sess., May 18, 1960.

§ 36.6 Where a resolution providing for the consideration of a bill makes in order, irrespective of questions of germaneness, "the text of" a specified bill as an amendment, only those points of order are considered to be waived which are directed against the complete text of that bill offered as an amendment; if a part or parts of the specified bill are of-

fered as independent amendments, they must meet the test of germaneness. 115 CONG. REC. 38123, 91st Cong. 1st Sess., Dec. 10, 1969.

§ 36.7 The fact that a resolution providing for the consideration of a bill specifically waives points of order against a particular amendment is not determinative of the issue of the germaneness of other, similar amendments. 106 CONG. REC. 5655, 86th Cong. 2d Sess., Mar. 14, 1960.

§ 36.8 An amendment permitted to remain because no point of order as to its germaneness was raised may be amended by a substitute germane thereto. 117 CONG. REC. 37075–79, 92d Cong. 1st Sess., Oct. 20, 1971.

§ 36.9 Instance where the previous question on a resolution reported from the Committee on Rules was rejected and an amendment adopted which struck out a provision waiving points of order against the consideration of a nongermane amendment. 120 CONG. REC. 38647, 38648, 93d Cong. 2d Sess., Dec. 9, 1974 [H. Res. 1485].

§ 36.10 Where a special rule waives points of order against the consideration of a designated amendment which might otherwise not be germane if offered to a bill, and does not specifically preclude the offering of amendments thereto, germane amendments to that amendment may be offered and, if adopted, it is then too late to challenge the germaneness of the original amendment as amended. 121 CONG. REC. 23991, 94th Cong. 1st Sess., July 22, 1975 [H.R. 7014].

§ 36.11 The Committee on Rules may report a special rule altering the ordinary test of the germaneness of an amendment, such as rendering only one portion of an amendment subject to a germaneness point of order, while preserving consideration of the remainder of the amendment as original text and waiving germaneness points of order with respect thereto. 124 CONG. REC. 15094, 95th Cong. 2d Sess., May 23, 1978 [H. Res. 1188]. 124 CONG. REC. 25705, 95th Cong. 2d Sess., Aug. 11, 1978 [H. Res. 1307]. See also 124 CONG. REC. 2388, 95th Cong. 2d Sess., Feb. 6, 1978 [H. Res. 982], where the House adopted a resolution waiving points of order against a portion of nongermane committee amendment—in effect treating that portion as a separate amendment. In this instance, as indicated in the committee report, one committee amendment, inserting new titles II and III at the end of the bill, had been recommended, though neither title was germane to the bill; however, the special rule was interpreted as treating the committee amendment as two separate amendments to be reported separately, notwithstanding consolidation thereof by the committee.

§ 36.12 In response to a parliamentary inquiry as to whether the Committee of the Whole could, by unanimous consent, require amendments offered to the pending text to be germane thereto notwithstanding the adoption by the House of a resolution waiving germaneness requirements for any amendment in the nature of a substitute, the Chairman stated that the Committee of the Whole could not even by unanimous consent directly amend the rule adopted by the House. 124 CONG. REC. 14394, 95th Cong. 2d Sess., May 18, 1978 [H.R. 39]. As to the extent to which the Chairman of the Committee of the Whole may entertain unanimous-consent requests inconsistent with a special rule adopted by the House, see Ch. 21 § 21, supra.

§ 37. Refusal by Chair to Rule; Anticipatory and Hypothetical Rulings

§ 37.1 The Chair will refuse to entertain a parliamentary inquiry on the germaneness of an amendment which has not yet been offered, since the Chair does not deliver anticipatory rulings, but once the amendment has been offered, the Chair may respond to a parliamen-

tary inquiry on the issue of germaneness. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 4, 1979 [H.R. 3324]. However, the Chair has declined to indicate, in response to a parliamentary inquiry, whether a pending substitute, if defeated, would thereafter be germane and in order if subsequently offered as an amendment in the form of a new section. 116 CONG. REC. 25811, 91st Cong. 2d Sess., July 27, 1970.

§ 37.2 The Speaker does not rule on such questions of germaneness as may be the province of the Chairman of the Committee of the Whole. 115 CONG. REC. 38130, 91st Cong. 1st Sess., Dec. 10, 1969.

§ 37.3 The Chair does not rule on hypothetical questions, and therefore declines to rule in advance with regard to the germaneness of instructions accompanying a motion to recommit (109 CONG. REC. 25249, 88th Cong. 1st Sess., Dec. 19, 1963); and since the Chair does not anticipate the content of a motion to recommit, he will not rule in advance as to whether a particular instruction would be germane. 115 CONG. REC. 38130, 91st Cong. 1st Sess., Dec. 10, 1969.

§ 37.4 The Chair, on occasion, has expressed an opinion as to whether a proffered amendment might be germane to a different part of the bill. 116 CONG. REC. 24038, 91st Cong. 2d Sess., July 14, 1970.

Chapter 29

Consideration and Debate

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A. Introductory; Initiating Consideration and Debate

§ 1. Methods of Initiating Consideration

§ 1.1 *Note:* Measures may be brought up for consideration in the House in various ways. They may be considered pursuant to special rules reported from the Committee on Rules. Some measures may be brought up as privileged under the House rules or pursuant to statutory provisions. Other methods of initiating consideration include suspension of the rules and unanimous-consent agreements.

§ 1.2 By unanimous consent, it may be made in order to consider a bill under the general rules of the House. Thus, a bill may be taken up under a unanimous-consent agreement providing for consideration under the general rules of the House and limiting general debate in Committee of the Whole. 107 Cong. Rec. 14050, 87th Cong. 1st Sess., July 31, 1961; see also 115 Cong. Rec. 7895, 91st Cong. 1st Sess., Mar. 27, 1969 [H.R. 9328]. Where consideration of a Union Calendar bill "under the general rules of the House" has been agreed on by unanimous consent, the bill will normally be considered in the Committee of the Whole; however, the bill may be called up pursuant to the agreement and then by unanimous consent considered in the House as in Committee of the Whole. 115 Cong. Rec. 8136, 91st Cong. 1st Sess., Apr. 1, 1969 [H.R. 9328].

§ 1.3 Where the House adopts a resolution providing for the immediate consideration of a resolution in the House, the Speaker directs the Clerk to report that resolution without its being called up by the Member in charge. 119 Cong. Rec. 2804, 2812, 93d Cong. 1st Sess., Jan. 31, 1973 [H. Res. 132]. See also 120 Cong. Rec. 36020, 36021, 93d Cong. 2d Sess., Oct. 17, 1974 [H. Res. 1456, providing for consideration of H.J. Res. 1167, making further continuing appropriations, fiscal 1975]. 122 Cong. Rec. 21795, 94th Cong. 2d Sess., July 1, 1976 [H. Res. 1368].

§ 1.4 The Committee on Rules may report a resolution providing for the immediate consideration of a bill which had not yet been reported from a committee. 118 Cong. Rec. 28829, 92d Cong. 2d Sess., Aug. 17, 1972 [H. Res. 1090]. The Committee on Rules may exercise this authority with respect to a jointly referred bill that has been reported by one committee but not the other. 122 Cong. Rec. 34121, 94th Cong. 2d Sess., Sept. 30, 1976 [H. Res. 1584]. For comprehensive discussion of resolutions providing for the consideration of unreported measures, see Ch. 21 § 20, supra.

§ 1.5 Certain measures may be called up for consideration in the House as privileged if reported by the appropriate committee, but where not so reported, such a resolution must be called up by some other procedure, such as suspension of the rules, a special rule making the matter privileged, or by unanimous consent. 123 Cong. Rec. 4579–81, 95th Cong. 1st Sess., Feb. 17, 1977 [H. Res. 115]; 108 Cong. Rec. 21048, 87th Cong. 2d Sess., Sept. 27, 1962, where a member of the Committee on House Administration asked unanimous consent for consideration of a resolution which had not been reported by the committee; he later withdrew his unanimous-consent request, reported the resolution, and called it up as privileged. See also 124 Cong. Rec. 14377, 95th Cong. 2d Sess., May 18, 1978 [H. Res. 1192], where the Majority Leader sought unanimous consent for the immediate consideration of a resolution, offered from the floor, expressing the sense of the House relative to the transfer of nonmilitary aid to the Republic of Korea.

§ 1.6 A resolution was reported from the Committee on Rules providing for the consideration in the House as in the Committee of

the Whole of another (nonprivileged) resolution reported from that committee establishing a Select Committee on Assassinations. 123 CONG. REC. 3359, 95th Cong. 1st Sess., Feb. 2, 1977 [H. Res. 320, providing for the consideration of H. Res. 222]. *Note:* House Resolution 222 was not privileged since it involved expenditures from the contingent fund.

§ 1.7 The Speaker indicated that he lacked authority to permit consideration in the House, other than on a day when motions to suspend the rules were in order, of a matter which was not privileged under the rules, absent action by the committee with legislative jurisdiction and by the Committee on Rules. 123 CONG. REC. 4053, 95th Cong. 1st Sess., Feb. 16, 1977. The Speaker indicated that he could not on his own initiative effectuate House consideration of a resolution disapproving the President's recommendation for salary increases for certain U.S. government officials (including Members of Congress), there being no mechanism under the law permitting privileged consideration of such resolutions. *Note:* The President's salary increase recommendations were scheduled to become effective on February 20, 1977, absent adoption by either House of a resolution disapproving all or a part of those recommendations. Since the law provided no procedure for consideration of such resolutions absent a report from the Committee on Rules of a special resolution permitting consideration, and since motions to suspend the rules were no longer in order that week, the Speaker had no authority to proceed on the matter except by unanimous consent. Public Law No. 95-19, subsequently enacted on April 12, 1977, now requires separate recorded votes within 60 calendar days on each of the President's recommendations.

§ 1.8 The House agreed by unanimous consent to consider in the House as in the Committee of the Whole a privileged rescission bill when called up by the Committee on Appropriations. 123 CONG. REC. 4576, 95th Cong. 1st Sess., Feb. 17, 1977 [H.R. 3347]. *Note:* Public Law No. 93-344, section 1017(c)(2), provides for two hours of debate on a rescission bill in the Committee of the Whole; the purpose of the above request was to permit immediate consideration under the five-minute rule without general debate.

§ 2. Calling Up Special "Rules" or Resolutions

§ 2.1 Special "rules" or resolutions reported from the Committee on Rules providing for the consideration of a measure may be called up pursuant to clause 4(b) Rule XI, though not on the same day reported except by a two-thirds vote. See 117 CONG. REC. 13586, 92d Cong. 1st Sess., May 5, 1971 [H. Res. 423]; 118 CONG. REC. 31986, 92d Cong. 2d Sess., Sept. 25, 1972 [H. Res. 1132]; 119 CONG. REC. 29713, 93d Cong. 1st Sess., Sept. 13, 1973 [H. Res. 543]. The two-thirds vote is required for the consideration of such a rule but only a majority vote is required for its adoption. 122 CONG. REC. 26793, 94th Cong. 2d Sess., Aug. 10, 1976 [H. Res. 1473, providing for the consideration of S. 3735]. If consideration is granted by a two-thirds vote, a point of order that the rule has not been printed does not lie. 123 CONG. REC. 3344, 95th Cong. 1st Sess., Feb. 2, 1977 [H. Res. 231]. The requirement that two-thirds of Members voting agree to consider the rule on the same day reported does not apply to resolutions called up during the last three days of a session. 116 CONG. REC. 44292, 91st Cong. 2d Sess., Dec. 31, 1970 [H. Res. 1337], holding that where a session of Congress is required by the 20th Amendment to the Constitution to end at noon on Sunday, January 3, that Sunday is considered a "dies non" under the provisions of clause 4(b) Rule XI in computing the final three calendar days within which the Committee on Rules may call up a resolution on the same day reported.

§ 2.2 A privileged report from the Committee on Rules may not be called up before the approval of the Journal. 114 CONG. REC. 30095, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 2.3 Where a privileged resolution providing for the consideration of a measure reported from the Committee on Rules is under debate, no matter of lesser privilege may interrupt its consideration without the consent of the House. 115 CONG. REC. 32076–83, 91st Cong. 1st Sess., Oct. 29, 1969 [H. Res. 586].

§ 2.4 Pursuant to Rule XI clause 4(c), a special rule reported by the Committee on Rules and not called up within seven legislative days may be called up by any member of that committee (125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 24, 1979), including a minority member. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 13, 1979 [H. Res. 454]; 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 25, 1980 [H. Res. 675]. And since the motion to call up such a resolution is privileged, the Speaker would be obliged to recognize for this purpose unless another matter of privilege was also proposed, in which case the order of consideration would be determined pursuant to the Speaker's discretionary power to grant recognition. 112 CONG. REC. 23691, 89th Cong. 2d Sess., Sept. 22, 1966.

§ 2.5 A Member recognized to call up a privileged resolution by direction of the Committee on Rules controls one hour of debate thereon and may offer one or more amendments thereto. 123 CONG. REC. 25653, 95th Cong. 1st Sess., July 29, 1977 [H. Res. 727]. Other Members may be recognized only if yielded time. 114 CONG. REC. 30217, 30222-24, 90th Cong. 2d Sess., Oct. 8, 1968. The resolution is not subject to amendment from the floor unless the Member in charge yields for that purpose or unless the House fails to order the previous question. 122 CONG. REC. 4625, 4626, 94th Cong. 2d Sess., Feb. 26, 1976 [H. Res. 868]. However, where the resolution is reported by the Commitee on Rules with committee amendments, the amendments are sometimes reported and acted on before the Member reporting the measure is recognized for debate thereon. 110 CONG. REC. 20213, 20221, 88th Cong. 2d Sess., Aug. 19, 1964 [H. Res. 845].

§ 2.6 Debate on a special rule reported from the Committee on Rules making in order the consideration of a bill is not limited to the terms of the rule but may go to the merits of the bill, since the issue is whether the bill should be considered under the terms of the special rule or considered at all. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 25, 1979 [H. Res. 384].

§ 2.7 Where the Committee on Rules is discharged from further consideration of a special "rule" or resolution, the resolution is read and immediately voted on, without debate. Clause 4 Rule XXVII. 111 CONG. REC. 25180-85, 89th Cong. 1st Sess., Sept. 27, 1965.

§ 3. Withdrawal From Consideration

§ 3.1 A privileged resolution may be withdrawn from consideration in the House even after debate thereon (115 CONG. REC. 22197, 91st Cong. 1st Sess., Aug. 5, 1969 [H. Res. 502]), provided the House has not taken action on the resolution. 115 CONG. REC. 32076-83, 91st Cong. 1st Sess., Oct. 29, 1969 [H. Res. 586]. Unanimous consent is not required to withdraw the resolution. 115 CONG. REC. 22197, 91st Cong. 1st Sess., Aug. 5, 1969 [H. Res. 502]. If after debate the same resolution is later called up, debate under the hour rule begins anew. 110 CONG. REC. 7303, 7308, 88th Cong. 2d Sess., Apr. 8, 1964. If the House desires to use part of the hour's debate on one day, and resume consideration on the next, it may, by unanimous consent, postpone further consideration, or (if there is no further business or special orders to follow), it may simply

adjourn so that the resolution will become unfinished business on the next day. 115 CONG. REC. 32076-83, 91st Cong. 1st Sess., Oct. 29, 1969 [H. Res. 586].

§ 3.2 Although a privileged resolution being considered in the House may be withdrawn by the Member calling it up at any time before action thereon, it may not be withdrawn when the absence of a quorum has been announced by the Chair. 116 CONG. REC. 36665, 36669, 91st Cong. 2d Sess., Oct. 14, 1970 [H. Res. 1252, providing for the consideration of H.R. 19519].

§ 3.3 Withdrawal from the possession of the House of a numbered resolution pending a unanimous-consent request for its immediate consideration requires unanimous consent. 124 CONG. REC. 14381, 95th Cong. 2d Sess., May 18, 1978 [H. Res. 1192]. *Note:* However, a motion or resolution can be withdrawn from consideration (as distinct from the possession of the House) as a matter of right before action thereon.

B. RECOGNITION

§ 4. In General; Power and Discretion of Chair

§ 4.1 A Member must be on his feet and must address the Chair at the appropriate time in order to be recognized. 120 CONG. REC. 40509, 93d Cong. 2d Sess., Dec. 17, 1974. Pursuant to Rule XIV clause 1, a Member desiring to speak must rise and address the Chair and may not remain seated at the committee table while engaging in debate. 122 CONG. REC. 21021, 94th Cong. 2d Sess., June 28, 1976 [H.R. 14234]. While a Member controlling the floor in debate must remain standing, a Member who inadvertently seats himself and then immediately stands again before the Chair recognizes another Member may be permitted to retain control of the floor. 123 CONG. REC. 34220, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 1037]. See also § 5.13, infra.

§ 4.2 The mere placing of an amendment on the Clerk's desk does not bestow recognition. 110 CONG. REC. 2290, 88th Cong. 2d Sess., Feb. 6, 1964 [H.R. 7152]. A Member, having placed his amendment with the Clerk, does not thereby gain recognition; he obtains recognition by rising and addressing the Chair. Where numerous amendments which might be offered to a bill have been left with the Clerk, the Chair may request all Members seeking to offer amendments not only to stand but to seek recognition at the appropriate time. 124 CONG. REC. 24227, 95th Cong. 2d Sess., Aug. 3, 1978.

§ 4.3 The fact that the Chair asks a Member "for what purpose does the gentleman rise" does not bestow recognition. The customary language used to bestow recognition is: "The Chair now recognizes the gentleman from ....." 113 CONG. REC. 32655, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388].

§ 4.4 Recognition is a matter within the discretion of the Chair; and the Chair will generally decline to curtail this discretion by announcing in advance whom he will recognize if a certain parliamentary situation develops. 113 CONG. REC. 4997, 90th Cong. 1st Sess., Mar. 1, 1967 [H. Res. 278]; 115 CONG. REC. 29219, 91st Cong. 1st Sess., Oct. 8, 1969 [H.R. 14159], where, pending a vote on ordering the previous question, the Chair declined to indicate whom he might recognize if the previous question were not ordered. See also 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Apr. 22, 1980 [H.J. Res. 521].

§ 4.5 The Speaker declined to recognize a Member who sought to invoke Rule XXV (relating to the debatability of questions as to the priority of business) to interfere with the Speaker's power of recognition. 121 CONG.

REC. 26249, 94th Cong. *1st Sess., July 31,* 1975.

§ 4.6 Where matters of equal privilege are pending, the order of their consideration is subject to the Speaker's power of recognition. 112 CONG. REC. 23691, 89th Cong. 2d Sess., Sept. 22, 1966. It follows that when more than one Member seeks recognition to call up privileged business it is within the discretion of the Speaker as to whom he shall recognize. 108 CONG. REC. 17654, 17670, 87th Cong. 2d Sess., Aug. 27, 1962 [S.J. Res. 29], where the Speaker recognized Members to move to suspend the rules and pass bills prior to recognizing for District of Columbia business when suspensions and District of Columia business were of equal privilege.

§ 4.7 Under the five-minute rule the Member handling a bill has preference in recognition for debate, but the power of recognition is with the Chair, and the Member cannot "yield" himself time for debate. 111 CONG. REC. 6113, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362].

§ 4.8 A motion to close debate and reserve time is not in order, but such motions have been entertained where no objection or point of order has been raised. 106 CONG. REC. 14088, 86th Cong. 2d Sess., June 23, 1960 [H.R. 12740].

§ 4.9 A point of order that a Member has not properly sought recognition under the five-minute rule comes too late after that Member has been recognized and has begun debate. 122 CONG. REC. 34145, 94th Cong. 2d Sess., Sept. 30, 1976 [S. 3521].

§ 4.10 A Member is not entitled to five minutes' debate on a pro forma amendment in Committee of the Whole until the Chair has recognized him for that purpose. 123 CONG. REC. 20288, 95th Cong. 1st Sess., June 22, 1977 [H.R. 7797].

§ 4.11 A resolution reported from the Committee on Rules which merely makes in order the consideration of a particular amendment does not confer a privileged status upon the amendment and does not, absent legislative history establishing a contrary intent by that committee, alter the principle that recognition to offer an amendment under the five-minute rule is within the discretion of the Chairman of the Committee of the Whole. 124 CONG. REC. 15095, 95th Cong. 2d Sess., May 23, 1978 [H. Res 1188]. As to the effect of special rules on the control and distribution of debate time, see § 7, infra.

§ 4.12 Recognition is within the discretion of the Chair, who may deny a Member recognition to speak under the "one-minute rule" in order to uphold order and decorum in the House as required under clause 2 of Rule I. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 27, 1980. In this instance, the Speaker inquired of a Member in the well seeking recognition, as to his purpose in utilizing an object for demonstration in debate, and then denied that Member recognition pursuant to his authority under clause 2 of Rule XIV, when he determined that the object might subject the House to ridicule.

§ 4.13 Recognition for unanimous-consent requests to address the House before legislative business is entirely within the discretion of the Chair, who may refuse to entertain such requests at all, and the Chair's refusal to so recognize is not subject to a point of order. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 25, 1980.

§ 5. Order of Recognition; Priorities in Recognition

§ 5.1 Recognition of Members to offer amendments under the five-minute rule is within the Chair's discretion and cannot be challenged on a point of order. 122 CONG.

REC. 17764, 94th Cong. 2d Sess., June 11, 1976 [H.R. 6218]. However, the Chair in extending such recognition follows certain guidelines as a matter of long-standing custom. Recognition to debate an amendment under the five-minute rule is first accorded to members of the committee or subcommittee reporting the bill over Members of the House who are not on that committee. 117 CONG. REC. 34287, 92d Cong. 1st Sess., Sept. 30, 1971 [H.R. 10351]; 122 CONG. REC. 17764, 94th Cong. 2d Sess., June 11, 1976 [H.R. 6218]. In bestowing such recognition, the Chair gives preference to the chairman of the committee reporting the bill under consideration. 113 CONG. REC. 32655, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388]. Thereafter, the Chair endeavors to alternate between majority and minority members of the reporting committee. 117 CONG. REC. 34287, 92d Cong. 1st Sess., Sept. 30, 1971 [H.R. 10351]; 122 CONG. REC. 17764, 94th Cong. 2d Sess., June 11, 1976 [H.R. 6218]. The Chair will normally recognize a member of a committee reporting a bill to offer a substitute before recognizing a non-committee member, although that committee member may already have been recognized to debate the original amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 18, 1979 [H.R. 3000]. Priority of recognition to offer amendments is extended to members of the full committee reporting the bill, alternating between the majority and minority, and the Chair does not accord prior recognition to members of the subcommittee which considered the bill over other members of the full committee. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980 [H.R. 7235].

§ 5.2 While the Chair endeavors to alternate recognition for the purpose of offering amendments between majority and minority members, members of the committee reporting a pending bill are entitled to prior recognition over noncommittee members despite their party affiliation. Thus the Chair may accord prior recognition to minority members of the reporting committee to offer amendments over majority noncommittee members, but will alternate between parties if majority committee members seek recognition for the same purpose. 120 CONG. REC. 24454, 24457, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500].

§ 5.3 In recognizing Members to offer amendments under the five-minute rule, the Chair normally recognizes members of the committee handling the bill in the order of their seniority on the committee. 116 CONG. REC. 25635, 91st Cong. 2d Sess., July 23, 1970 [H.R. 18515]; 124 CONG. REC. 14145, 95th Cong. 2d Sess., May 17, 1978 [H. Res. 1186]. But recognition under the five-minute rule is within the discretion of the Chair, and he is not required in every instance to recognize the members of the committee reporting the bill in order of their seniority on that committee. 115 CONG. REC. 28101, 91st Cong. 1st Sess., Oct. 2, 1969 [H.R. 14000].

§ 5.4 Members of the committee reporting the bill under consideration usually have preference in recognition, but the power of recognition is with the Chair, and he may recognize someone else under special circumstances or for a wide variety of reasons. 113 CONG. REC. 19416, 90th Cong. 1st Sess., July 19, 1967 [H.R. 421]. The Chair may recognize another merely because the committee member is standing but not actively seeking recognition. 124 CONG. REC. 24439, 95th Cong. 2d Sess., Aug. 4, 1978 [H.R. 12931]. The Chair has also recognized another based on the fact that he did not see a committee member seeking such recognition. 113 CONG. REC. 21842, 90th Cong. 1st Sess., Aug. 8, 1967 [H.R. 5037].

§ 5.5 While a member of the committee which reported a pending bill has priority of recognition under the five-minute rule over a noncommittee member, the committee member, once recognized, may yield to another member, whether or not on the committee, to speak out of order by unanimous con-

sent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 18, 1979 [H.R. 4473].

§ 5.6 The manager of a bill—not the proponent of a particular amendment—is entitled to recognition to close debate on the amendment. 111 CONG. REC. 16228, 89th Cong. 1st Sess., July 9, 1965 [during debate on H.R. 6400]. The manager of a bill is also entitled to close general debate, and the minority member controlling one-half of the time must consume it or yield it back prior to the closing of debate. 122 CONG. REC. 4979, 94th Cong. 2d Sess., Mar. 2, 1976 [H.R. 10760].

§ 5.7 Where a vital motion made by the Member in charge of a measure is defeated, the right to prior recognition passes to a Member opposed. 120 CONG. REC. 34151, 34157-59, 93d Cong. 2d Sess., Oct. 7, 1974 [H.J. Res. 1131]. Thus, where the previous question is rejected on a pending resolution, the Chair recognizes a Member opposed to the resolution who may then offer an amendment. 116 CONG. REC. 19837-44, 91st Cong. 2d Sess., June 16, 1970 [H. Res. 1077]. And the recognition of the Member is not precluded by the fact that he has been previously recognized and offered an amendment which was ruled out on a point of order. 115 CONG. REC. 27-29, 91st Cong. 1st Sess., Jan. 3, 1969 [H. Res. 1]. The Member recognized to offer the amendment is entitled to the floor and amendments to his amendment are in order only if he yields for that purpose. 115 CONG. REC. 22558, 91st Cong. 1st Sess., Aug. 6, 1969.

§ 5.8 Where a bill is being read for amendment under the five-minute rule, the Chair does not anticipate the order in which amendments may be offered nor does he declare in advance the order in which he will recognize Members proposing amendments. 112 CONG. REC. 22020, 89th Cong. 2d Sess., Sept. 8, 1966 [H.R. 14026].

§ 5.9 When a bill is being read for amendment under the five-minute rule, committee amendments to a section are considered before the Chair entertains amendments from the floor. 109 CONG. REC. 11396, 88th Cong. 1st Sess., June 24, 1963 [H.R. 6177].

§ 5.10 Under the five-minute rule, a Member is entitled to recognition in support of his amendment prior to recognition of another Member to offer, and speak, to a substitute therefor. 108 CONG. REC. 13795, 87th Cong. 2d Sess., July 17, 1962 [H.R. 11974].

§ 5.11 A Member may not, by attempting to offer a preferential motion in the Committee of the Whole, deprive another Member—who has been recognized by the Chair—of the floor. 123 CONG. REC. 13414, 95th Cong. 1st Sess., May 4, 1977 [H.R. 6689].

§ 5.12 Where the Member handling a bill on the floor and a minority member both seek recognition, the Chair gives preference to the former. 113 CONG. REC. 32655, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388]. The manager of a bill is also entitled to priority in recognition to offer a motion that consideration of the bill be resumed in the Committee of the Whole. 123 CONG. REC. p. ....., 95th Cong. 1st Sess., Nov. 3, 1977 [H.R. 9179].

§ 5.13 A Member recognized in support of an amendment may yield to another for a question or a brief statement, but he must remain standing in order to protect his right to the floor. 110 CONG. REC. 5100, 88th Cong. 2d Sess., Mar. 12, 1964.

§ 5.14 Where an amendment has been offered to a bill being considered in the House as in Committee of the Whole, the Member who offered the amendment may not, by moving the previous question on the amendment, take from his feet another Member who had been recognized to debate the amendment. 118 CONG. REC. 16154, 16157, 92d Cong. 2d Sess., May 8, 1972 [H.R. 14718].

§ 5.15 Following the adoption of a resolution making in order the consideration of a Senate bill in the House, the Member calling up the Senate bill is recognized for one hour. 121 CONG. REC. 36638, 94th Cong. 1st Sess., Nov. 14, 1975 [H. Res. 866].

§ 5.16 Where the Committee of the Whole resumed consideration of a bill under a special rule prohibiting amendments to a pending amendment except pro forma amendments for debate, the Chair announced that he would first recognize Members who had not offered pro forma amendments on the preceding day, priority of recognition being given to members of the reporting committee. 123 CONG. REC. 26444, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 8444].

C. CONTROL AND DISTRIBUTION OF TIME FOR DEBATE

§ 6. In General

§ 6.1 Debate on a privileged resolution is under the hour rule and the Member recognized to call it up has control of the time. 109 CONG. REC. 3051, 88th Cong. 1st Sess., Feb. 27, 1963 [H. Res. 146]; 111 CONG. REC. 13799, 89th Cong. 1st Sess., June 16, 1965 [H. Res. 416]. Thus, where a Member is recognized to call up a resolution providing for the consideration of a measure, he has control of the time for debate on that resolution and may yield part of that time to other Members. 111 CONG. REC. 23609, 89th Cong. 1st Sess., Sept. 13, 1965 [H. Res. 499].

§ 6.2 Debate on a committee amendment to a resolution being considered in the House is within the control of the Member calling up the resolution, who may move the previous question thereon without yielding for debate or for parliamentary inquiries. 119 CONG. REC. 37141, 37142, 37149, 37150, 93d Cong. 1st Sess., Nov. 15, 1973 [H. Res. 702].

§ 6.3 Where, by unanimous consent the chairman and the ranking minority member of a committee each have control of more than one hour of the time for general debate, they are still limited in their own presentations by the hour rule. 115 CONG. REC. 21174-78, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111].

§ 6.4 The House having agreed to a resolution discharging a committee from further consideration of a bill, the Speaker under the terms of the resolution designated the chairman of that committee to control time in opposition to the bill during consideration thereof in the Committee of the Whole. 111 CONG. REC. 25185-87, 89th Cong. 1st Sess., Sept. 27, 1965 [H. Res. 515].

§ 6.5 Where the Member in control of the time for general debate in the Committee of the Whole is absent from the chamber, he may designate another Member to control the time in his absence; but the Chair must be informed of this delegation of authority. 110 CONG. REC. 1538, 88th Cong. 2d Sess., Jan. 31, 1964 [H.R. 7152].

§ 6.6 Where debate on a bill and all amendments thereto is limited to a *time certain* the Chair has the power in his discretion to divide any time remaining for debate equally between proponents and opponents of amendments. 116 CONG. REC. 14465, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123].

§ 6.7 Alternation of recognition is not required during the 40 minutes of debate on a motion to suspend the rules. 107 CONG. REC. 20491, 20493, 87th Cong. 1st Sess., Sept. 20, 1961 [H.R. 5628]; 108 CONG. REC. 6682, 6688, 87th Cong. 2d Sess., Apr. 16, 1962.

§ 6.8 Bills that require consideration in Committee of the Whole may be considered in the House as in Committee of the Whole under

the five-minute rule when unanimous consent is granted for their immediate consideration, but when consent is granted specifically for their immediate consideration *in the House,* debate is under the hour rule and amendments are only in order if the Member controlling the time yields for that purpose. 120 CONG. REC. 10769-71, 93d Cong. 2d Sess., Apr. 11, 1974 [S. 3062].

§ 6.9 Where a statute provides that general debate on a resolution be divided equally between individuals favoring and individuals opposing the resolution, the Chair may without objection recognize a member of the majority and a member of the minority who are both opposed to the resolution to equally divide and control the time, with the understanding at least half the time would be yielded to those favoring the resolution. 124 CONG. REC. 20506, 95th Cong. 2d Sess., July 12, 1978 [H. Con. Res. 599].

§ 7. Effect of Special "Rule" or Resolution

§ 7.1 The House, through its adoption of a special order, and not the Committee of the Whole, controls the distribution of time for general debate in the Committee of the Whole. 121 CONG. REC. 16285, 94th Cong. 1st Sess., June 2, 1975 [H.R. 6219, the Voting Rights Act extension].

§ 7.2 Where a bill is considered under the provisions of a resolution which places control of part of the time for general debate in the hands of the chairman of the committee reporting the bill, the chairman may delegate control of the time to another; but such delegation is not effective unless communicated to the Chairman of the Committee of the Whole. 110 CONG. REC. 1538, 88th Cong. 2d Sess., Jan. 31, 1964 [H.R. 7152].

§ 7.3 A resolution providing for the consideration of a bill may specify that debate on the measure is to be equally divided between and controlled by two standing committees. See 116 CONG. REC. 38746, 91st Cong. 2d Sess., Nov. 24, 1970 [H. Res. 1267]. In several instances, the Committee on Rules reported resolutions dividing debate on bills between two or more committees. See, for example, 122 CONG. REC. 14377, 94th Cong. 2d Sess., May 19, 1976 [H. Res. 1182, providing for the consideration of H.R. 13350, with general debate to be equally divided between two committees jointly reporting the bill]; 122 CONG. REC. 24777, 24778, 94th Cong. 2d Sess., July 30, 1976 [H. Res. 1267, providing for the consideration of H.R. 2525, general debate controlled by chairmen and ranking minority members of three committees reporting the bill, with sequential committees controlling lesser amounts of time]; 123 CONG. REC. 28364, 95th Cong. 1st Sess., Sept. 9, 1977 [H. Res. 640, providing for the consideration of H.R. 6566, reported from two (initial and sequential) committees, with general debate divided and controlled by the two committees]; 123 CONG. REC. 28365, 28366, 95th Cong. 1st Sess., Sept. 9, 1977 [H. Res. 657, providing for the consideration of H.R. 6796, reported from three (initial and sequential) committees, with general debate divided and controlled by the those three committees]; and 123 CONG. REC. 28367, 95th Cong. 1st Sess., Sept. 9, 1977 [H. Res. 738, providing for the consideration of H.R. 5383, with general debate divided between the standing committee reporting the bill and the permanent select committee with oversight jurisdiction].

§ 7.4 Where a special rule divides the control of general debate on a bill among the chairmen and ranking minority members of two standing committees, the Chair may alternate recognition among all four of the Members controlling the time. 122 CONG. REC. 33044, 94th Cong. 2d Sess., Sept. 28, 1976 [H.R. 15]. The Chair may rotate recognition to permit each Member to utilize a portion of this time

and then to yield remaining portions to other Members. 122 CONG. REC. 24179, 24186, 94th Cong. 2d Sess., July 28, 1976 [H.R. 11656]. And the Chair may permit the chairman of the primary committee involved to reserve a portion of his allotted time to close general debate. 121 CONG. REC. 38174, 94th Cong. 1st Sess., Dec. 2, 1975 [H.R. 10481].

§ 7.5 House debate on the confirmation of Vice President-designate Rockefeller was limited by special rule to six hours and was equally divided and controlled by: (1) the Chairman and ranking minority member of the Committee on the Judiciary (both of whom favored the nomination) and (2) a majority member of the Judiciary Committee who opposed the nomination. 120 CONG. REC. 41419, 93d Cong. 2d Sess., Dec. 19, 1974 [H. Res. 1519, providing for consideration of H. Res. 1511, confirming Nelson A. Rockefeller as Vice President of the United States].

§ 7.6 Under a resolution reported by the Committee on Rules providing for consideration of another resolution, also reported from the Committee on Rules, debate thereon was placed in the control of another special committee of the House, which committee was being continued in existence by the terms of the resolution. 114 CONG. REC. 8776, 90th Cong. 2d Sess., Apr. 3, 1968 [H. Res. 1119].

§ 7.7 A special rule may provide that, after general debate divided between the chairman and ranking minority member of the reporting committee, a certain amount of time for general debate be divided and controlled by a Member in favor of and a Member opposed to a certain section of the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 13, 1979 [H.R. 4040]. In one instance, the House adopted a special rule providing for one hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the reporting committee, and two hours to be divided and controlled by Members to be designated by the chairman. 124 CONG. REC. 23451, 95th Cong. 2d Sess., July 31, 1978 [H. Res. 1286]. *Note:* When the Committee on Rules considered the rule, it was not yet determined which Members should appropriately control the two-hour debate time; therefore, discretion to designate them was provided in the rule.

§ 8. Yielding Time—For Debate

§ 8.1 Yielding of time for general debate is discretionary with the Members who have control thereof. 105 CONG. REC. 15678, 86th Cong. 1st Sess., Aug. 12, 1959 [H.R. 8342].

§ 8.2 A Member to whom time was yielded under the hour rule in the House may not, except by unanimous consent, reserve a portion of that time to himself; the unused time reverts to the Member controlling the hour who may subsequently yield further time to that Member. 118 CONG. REC. 3181-84, 3199, 92d Cong. 2d Sess., Feb. 8, 1972 [H. Res. 164].

§ 8.3 A Member recognized to control one hour of debate in the House may yield a portion of that time to another Member who may, while remaining on his feet, yield to other Members for comments or questions. 116 CONG. REC. 28005, 91st Cong. 2d Sess., Aug. 10, 1970 [H.J. Res. 264]; 117 CONG. REC. 39889, 39892, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191]. Where a Member is yielded time in the House for debate only, he may not yield to a third Member for purposes other than debate. 116 CONG. REC. 28005, 91st Cong. 2d Sess., Aug. 10, 1970 [H.J. Res. 264]; 117 CONG. REC. 39889, 39892, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191]. And the Member to whom a specific amount of time has been yielded for debate may not, in turn, yield a portion of that allotted time to a third Member except by unanimous consent. The first person yielded time, however, may while retaining the floor yield for a question or comment by another Member. 116 CONG. REC.

28005, 91st Cong. 2d Sess., Aug. 10, 1970 [H.J. Res. 264]. See also 109 CONG. REC. 3993, 88th Cong. 1st Sess., Mar. 12, 1963 [H. R. 4374], where the Member in charge yielded one-half the time to a minority member who, by unanimous consent, was permitted to allocate that time.

§ 8.4 *Note:* The practice with regard to privileged resolutions from the Committee on Rules providing special rules for the consideration of measures is for the Member in charge of the resolution to yield one-half of the time to the minority who then may yield specified portions thereof. While the minority member of the Committee on Rules to whom one-half of the debate time is yielded customarily yields portions of that time to other Members, another Member to whom a portion of time is yielded may in turn yield blocks of that time only by unanimous consent. 122 CONG. REC. 1632, 94th Cong. 2d Sess., Jan. 29, 1976 [H. Res. 982].

§ 8.5 A Member recognized to call up a resolution providing for an order of business is recognized for one hour and may yield any part of the hour as his judgment dictates, and is not bound by the practice of the Committee on Rules to yield one-half the time to the minority. 111 CONG. REC. 23618, 89th Cong. 1st Sess., Sept. 13, 1965 [H. Res. 478]. Similarly, where a Member has been recognized under the hour rule following refusal of the previous question on such a resolution, he has control of the time and is under no obligation to yield half of that time as is the customary practice of the Committee on Rules. 112 CONG. REC. 27713-29, 89th Cong. 2d Sess., Oct. 19, 1966 [H. Res. 1013].

§ 8.6 During general debate, in the Committee of the Whole, on a bill being considered under a special order providing that time be controlled by the chairman and ranking minority member of the committee reporting the bill, additional time must be yielded by the Members controlling the time and may not be obtained by unanimous consent. 121 CONG. REC. 16285, 94th Cong. 1st Sess., June 2, 1975 [H.R. 6219, the Voting Rights Act extension].

§ 9. — For Amendment

§ 9.1 A pending resolution being considered in the House is not subject to amendment unless the Member in control yields for that purpose. 111 CONG. REC. 20, 89th Cong. 1st Sess., Jan. 4, 1965 [H. Res. 2].

§ 9.2 A Member controlling debate in the House on a privileged resolution may yield to another to offer an amendment (111 CONG. REC. 24290, 89th Cong. 1st Sess., Sept. 17, 1965 [H. Res. 585]), despite his prior announced intention not to yield for such purpose. 117 CONG. REC. 12489, 12504, 92d Cong. 1st Sess., Apr. 29, 1971 [H. Res. 274].

§ 9.3 Where the Member calling up a resolution yields for the purpose of an amendment, the Member offering the amendment is recognized for an hour and may yield time. 111 CONG. REC. 24290, 89th Cong. 1st Sess., Sept. 17, 1965 [H. Res. 585]. Where a Member calling up a measure in the House offers an amendment and then yields to another Member to offer an amendment to his amendment, he loses the floor and the Member to whom yielded is recognized for one hour and may move the previous question on the amendments and on the measure itself. 123 CONG. REC. 38393, 95th Cong. 1st Sess., Dec. 6, 1977 [H.J. Res. 662].

§ 9.4 Where a Member controlling the time on a joint resolution in the House yields for the purpose of amendment, another Member may move the previous question on the joint resolution before the Member is recognized to debate his amendment. 117 CONG. REC. 39944, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191].

§ 9.5 A Member recognized under the five-minute rule may not yield to another Member to offer an amendment, as it is within the power of the Chair to recognize each Member to offer amendments. 119 CONG. REC. 13240, 93d Cong. 1st Sess., Apr. 19, 1973 [S. 502]; 124 CONG. REC. 14410, 95th Cong. 2d Sess., May 18, 1978 [H.R. 39]; 124 CONG. REC. 20653, 95th Cong. 2d Sess., July 13, 1978 [H.R. 15]. However, a Member recognized under the five-minute rule may by unanimous consent yield the balance of his time to another Member who may thereafter offer an amendment when recognized by the Chair to use such time. 121 CONG. REC. 34442, 94th Cong. 1st Sess., Oct. 30, 1975 [H.R. 8603].

§ 10. Relevancy in Debate

§ 10.1 Pursuant to Rule XIV clause 1, debate in the House must be confined to the question under consideration. 109 CONG. REC. 23968, 88th Cong. 1st Sess., Dec. 10, 1963. When a resolution reported from the Committee on Rules is pending, debate must be confined to that special rule and to the merits of the bill made in order thereby. 122 CONG. REC. 25778, 94th Cong. 2d Sess., Aug. 5, 1976 [H. Res. 1444]. However, permission to speak out of order is sometimes given by unanimous consent. 124 CONG. REC. 31197, 95th Cong. 2d Sess., Sept. 25, 1978.

§ 10.2 General debate in the Committee of the Whole need not relate to the bill under consideration absent a special rule or other specific limitation. Absent such a requirement of relevancy, a Member may discuss any subject relating to the state of the Union. See 120 CONG. REC. 21743, 21744, 93d Cong. 2d Sess., June 28, 1974 [H.R. 15581], where a unanimous-consent request limiting and dividing control of general debate did not confine debate to the bill, the principle of wide latitude for debate (8 Cannon's Precedents § 2590) was applicable.

§ 10.3 Where the Committee of the Whole is considering a bill under the terms of a resolution which requires that debate be confined to the bill, a Member may proceed out of order only by unanimous consent. 113 CONG. REC. 33772, 90th Cong. 1st Sess., Nov. 27, 1967 [H.R. 13489]. And the Member controlling the time may not yield to another Member to speak out of order without the consent of the Committee. 116 CONG. REC. 38936, 91st Cong. 2d Sess., Nov. 25, 1970 [H.R. 19504].

§ 10.4 In debate under the five-minute rule, a Member must confine himself to the subject of the amendment and its relation to the bill. A discussion of amendments which may be offered at a later time is not in order. 110 CONG. REC. 755, 88th Cong. 2d Sess., Jan. 21, 1964 [H.R. 4879]. Debate is confined to the subject then pending. 115 CONG. REC. 24372, 91st Cong. 1st Sess., Sept. 4, 1969 [H.R. 12085]. However, a Member may speak out of order by unanimous consent even where the Committee is proceeding pursuant to the provisions of a special rule permitting only designated amendments to be offered. 123 CONG. REC. 26483, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 8444].

§ 10.5 Where a Member is proceeding under a reservation of the right to object to a unanimous-consent request, he must confine his remarks to the question under debate (Rule XIV clause 1). 122 CONG. REC. 31875, 94th Cong. 2d Sess., Sept. 22, 1976.

§ 11. Interruptions; Parliamentary Inquiries

§ 11.1 A Member desiring to interrupt another in debate should address the Chair to obtain the permission of the Member speaking. 107 CONG. REC. 9681, 87th Cong. 1st Sess., June 7, 1961. When debate is controlled pursuant to a special order by designated Members, another Member may speak only if yielded to,

and may not request unanimous consent for time for debate. 124 CONG. REC. 38378, 95th Cong. 2d Sess., Oct 14, 1978.

§ 11.2 A Member may interrupt another Member in debate only if he yields for that purpose. 124 CONG. REC. 38378, 95th Cong. 2d Sess., Oct 14, 1978. A Member may not be interrupted by another for a parliamentary inquiry without his consent. 113 CONG. REC. 19033, 90th Cong. 1st Sess., July 17, 1967. Nor will he lose control of the floor if he does yield for that purpose. A Member who has been yielded time for a parliamentary inquiry may not during his inquiry move that the House adjourn, for that would deprive the Member holding the floor of his right to resume. 110 CONG. REC. 12522, 88th Cong. 2d Sess., June 3, 1964. Of course, where the Member controlling the time yields to another for debate, the latter may, during the time so yielded, propound a parliamentary inquiry. 113 CONG. REC. 19033, 90th Cong. 1st Sess., July 17, 1967 [S.J. Res. 81]. And where a Member to whom time has been yielded for general debate poses a parliamentary inquiry, the time consumed to answer the inquiry is deducted from his time for debate. 121 CONG. REC. 30196, 94th Cong. 1st Sess., Sept. 25, 1975 [H.R. 1287]. But when the Member holding the floor during general debate yields solely for a parliamentary inquiry, the time continues to run against him. 113 CONG. REC. 4997, 90th Cong. 1st Sess., Mar. 1, 1967 [H. Res. 278]. See also 113 CONG. REC. 19033, 90th Cong. 1st Sess., July 17, 1967 [S.J. Res. 81], holding that if a Member yields for a parliamentary inquiry, the time consumed by the inquiry (and the reply) is taken from that allotted him.

§ 12. Losing Control of the Floor

§ 12.1 A Member controlling one hour of debate on a measure before the House loses the floor if he yields to another Member to offer an amendment. 111 CONG. REC. 18076, 89th Cong. 1st Sess., July 26, 1965; 113 CONG. REC. 34136-38 90th Cong. 1st Sess., Nov. 29, 1967 [H. Res. 960]; 114 CONG. REC. 428, 90th Cong. 2d Sess., Jan 22, 1968 [H. Res. 997]. If the Member controlling the time loses the floor by yielding for an amendment, the Member offering that amendment is recognized for an hour, irrespective of any restriction on time which the Member originally controlling the floor attempted to place thereon. 117 CONG. REC. 12489, 12504, 92th Cong. 1st Sess., Apr. 29, 1971 [H. Res. 274].

§ 12.2 A Member in control of time under the hour rule may allot portions of his time to other Members; but if he loses the floor, Members who have been promised time for debate also lose the right of recognition. 113 CONG. REC. 34136-38, 90th Cong. 1st Sess., Nov. 29, 1967 [H. Res. 960].

§ 12.3 A Member who has lost the floor during debate on a resolution by yielding for an amendment may nevertheless be recognized to move the previous question on the resolution following rejection of the amendment. 117 CONG. REC. 17502, 17504, 92d Cong. 1st Sess., June 2, 1971 [H. Res. 449].

D. DISORDER IN DEBATE; DECORUM

§ 13. In General

§ 13.1 In seeking recognition, a Member must rise, address himself to the Speaker, and on being recognized must confine himself to the question under debate, avoiding personality. (Clause 1 Rule XIV.)

§ 13.2 Clause 1 Rule XIV requires that Members stand while participating in debate. 119

CONG. REC. 13136, 93d Cong. 1st Sess., Apr. 18, 1973 [S. 502].

§ 13.3 A Member should address his remarks to the Chair, and only the Chair; it is not in order for a Member to address his remarks to "the press." 109 CONG. REC. 6892, 88th Cong. 1st Sess., Apr. 24, 1963 [H.R. 12]. 124 CONG. REC. 17615, 95th Cong. 2d Sess., June 14, 1978. See also 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 5, 1979 [H.R. 3324], where the Chairman of the Committee of the Whole reminded the Members that remarks in debate should be addressed to the Chairman, and not to Members or others not present in the Chamber. Similarly, it is not in order in debate to address remarks to the "television" or to anyone, including Members not present, viewing televised House proceedings, and the Chair may take the initiative in calling a Member to order in this respect. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 8, 1979 [H.R. 4167].

§ 13.4 It is not in order in debate to refer to persons in the gallery; and the Chair must on his own initiative, enforce this rule. 110 CONG. REC. 2264, 88th Cong. 2d Sess., Feb. 6, 1964 [H.R. 7152]. 123 CONG. REC. 34220, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 1037]; 124 CONG. REC. 17615, 95th Cong. 2d Sess., June 14, 1978.

§ 13.5 The Speaker may suggest that debate is becoming personal and approaching a violation of the rules, and may direct a Member to make his observations in order. 110 CONG. REC. 14717, 88th Cong. 2d Sess., June 23, 1964.

§ 13.6 The Chair will clear the well in the event of disorder therein. But the Speaker will not entertain a demand that it be cleared if he observes no disorder in the well. 109 CONG. REC. 23831, 88th Cong. 1st Sess., Dec. 9, 1963, where Members wishing to sign a discharge petition had lined one aisle of the Chamber, to the right of the rostrum, and were filing into the well to sign the petition, which was at the Clerk's desk. It was this action that a Member intimated was causing disorder in the well.

§ 13.7 Questions having been raised concerning the proper attire for Members in the Chamber following the raising of thermostat controls in the summer months to comply with a Presidential energy-conservation order, the Speaker announced that he still considered as proper the customary traditional attire for Members, including a coat and tie for male Members and appropriate attire for female Members. He indicated that while he would prefer not to rule on a point of order based on a violation of these guidelines, trusting that standards of dress be voluntarily maintained, he would not foreclose the possibility of entertaining such a point of order. In one instance, the Speaker refused to recognize for debate a Member in violation of the practice that Members were expected to follow traditional standards of dress, and requested the Member in question to remove himself from the floor and don proper attire. The House subsequently agreed to a resolution, offered as a question of privilege of the House, requiring Members to wear proper attire as determined by the Speaker, and denying noncomplying Members the privilege of the floor. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979 [H. Res. 369; H. Res. 370].

§ 14. References to Senate or Senators

§ 14.1 Because the opinions of each House should be independent of each other, and not influenced by the proceedings of "the other body," it has always been held a breach of order to refer to debates or votes on the same subject in the other House or to its methods of procedure as bearing on the course to be taken on a pending matter, although it is permissible to refer to proceedings in the other House

generally, provided the reference does not contravene the principles of the rule. *House Rules and Manual* §371 (96th Cong.). Accordingly, references in debate to a Member of the Senate or to probable actions taken by the Senate may be ruled out on a point of order. 118 CONG. REC. 28917, 92d Cong. 2d Sess., Aug. 17, 1972 [S.J. Res. 260], where a point of order was raised after a Member declared: "A member of the other body may object, but I would say that he will then have on his shoulders the denial of guaranteed student loans to all the students of the country. . . ."

§ 14.2 The principles of comity between the two Houses prohibits any reference in debate to actions of particular Senators within or outside the Senate. 120 CONG. REC. 19083, 19085, 19086, 93d Cong. 2d Sess., June 13, 1974. It is not in order in debate to mention the name of a Senator (109 CONG. REC. 1985, 88th Cong. 1st Sess., Feb. 7, 1963), or to refer to a speech made in the Senate. 110 CONG. REC. 6361, 6365, 88th Cong. 2d Sess., Mar. 26, 1964. A reference in debate to a Senator or to his vote on a proposition is likewise out of order. 107 CONG. REC. 16210, 87th Cong. 1st Sess., Aug. 17, 1961.

§ 14.3 It is a violation of the rules of parliamentary procedure to refer by name to the remarks or actions of a Senator occurring in the Senate or elsewhere. 121 CONG. REC. 32055, 32056, 94th Cong. 1st Sess., Oct. 7, 1975. Nor is it in order in House debate to read or quote from the Record on the proceedings of the Senate. 113 CONG. REC. 34036, 90th Cong. 1st Sess., Nov. 28, 1967. Where a Member, in debate or through an insertion in the Record, transgresses this rule the Speaker may call him to order pursuant to Rule XIV clause 4 (121 CONG. REC. 32055, 32056, 94th Cong. 1st Sess., Oct. 7, 1975), and inform him that his words are in violation of the principle of comity. The offending words may be stricken from the Record by order of the Speaker (121 CONG. REC. (daily ed.), 94th Cong. 1st Sess., Nov. 18, 1975; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 15, 1979 [H.R. 39]) or removed therefrom by unanimous consent in the House. 121 CONG. REC. (daily ed.), 94th Cong. 1st Sess., Oct. 7, 1975.

§ 14.4 A statement in debate that "some people call it the Goldwater-Ayres bill because it is an example of exempting multi-million dollar stores in Arizona" was held to be unparliamentary. 107 CONG. REC. 4780, 87th Cong. 1st Sess., Mar. 24, 1961.

§ 14.5 Where a Member had, on a previous day, made an unchallenged reference in debate and in a *Congressional Record* insertion to the actions of a named Senator outside of the Senate, the Speaker, in response to a parliamentary inquiry, indicated that those remarks were in violation of the rule of comity between the two Houses and by unanimous consent the remarks were stricken from the permanent Record. 121 CONG. REC. (daily ed.), 94th Cong. 1st Sess., Oct. 7, 1975.

§ 14.6 Where a Member demanded that another Member's references in debate to a Senator be stricken from the *Congressional Record* but did not demand that the words be "taken down" (pursuant to Rule XIV clause 5), the Speaker pro tempore sustained the point of order against violation of the principle of comity (under § 374 of Jefferson's Manual) but did not submit to the House the question of striking the unparliamentary words. 120 CONG. REC. 19083, 19085, 19086, 93d Cong. 2d Sess., June 13, 1974. *Note:* Under § 374 of Jefferson's Manual, the Chair should take the initiative to prevent references of any sort in debate to the Senate or its Members, but where the words have already been uttered and a Member makes a timely demand under Rule XIV clause 5 that the words be taken down, the Speaker must uphold the principle of comity as contained in §§ 371-374 of Jefferson's Manual, and a motion to permit the Member to explain or to proceed in order is in

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order. But where words are taken down and ruled out of order, the motion to expunge from the *Congressional Record* is of highest priority.

§ 14.7 The inhibition against referring in debate to Members or proceedings of the Senate does not extend to historical discussion of previous Members of the Senate. 123 CONG. REC. 15388, 95th Cong. 1st Sess., May 18, 1977 [H.R. 10]. Nor does the rule of comity prohibit references to Senators in their capacity as candidates for the Presidency or other office; however, references attacking the character or integirty of a Member of the Senate in that context are improper. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 30, 1979.

§ 15. References in Senate to House or Members

§ 15.1 It is not in order in Senate debate to refer to Members of the House by name, or to impute to them unworthy motives. 112 CONG. REC. 42, 45, 89th Cong. 2d Sess., Feb. 28, 1966. However, the Presiding Officer of the Senate has indicated that although Jefferson's Manual (§ 371, 96th Cong.) prohibits references in debate to the debate and proceedings of the other House, the Senate has not adopted Jefferson's Manual as part of its rules or otherwise prohibited such references in debate, and that references to House proceedings are in order provided that parliamentary language is used. 124 CONG. REC. 37430, 95th Cong. 2d Sess., Oct. 14, 1978.

§ 15.2 It is not in order in the Senate to allude to or quote from the proceedings of the House. 112 CONG. REC. 4300, 89th Cong. 2d Sess., Feb. 28, 1966, where by unanimous consent a Senator was permitted to read from a House report touching on a subject under debate in the Senate.

§ 15.3 Where a Senator had inserted in the Record a letter he had written to his political opponent (a Member of the House), questioning the ethics of that Member's campaign practices, and had read a statement on the Senate floor similarly critical of that Member's campaign [which material had been amended to delete references to the opponent's membership in the House], another Senator reserved the right to move that the statement be stricken from the *Congressional Record* on the ground that it violated the rule of comity between the two Houses. The next day, the Senator's floor speech was, by unanimous consent, stricken from the *Congressional Record* as a breach of the rule of comity. 91st Cong. 2d Sess., Sept. 17, 18, 1970.

§ 15.4 During debate in the Senate on the Panama Canal Treaty, a Member of the Senate introduced and acknowledged the presence on the floor of a Member of the House, discussed actions of and communications between Members of the House, and caused to be inserted in the *Congressional Record* letters from the Member of the House to the Speaker and to the Majority Leader of the Senate. 124 CONG. REC. 3204, 95th Cong. 2d Sess., Feb. 10, 1978.

§ 16. Criticism of House or Member

§ 16.1 Pursuant to the rule that Members must not engage in personalities in debate, the Speaker has held language unparliamentary where it improperly reflects on another Member. Thus, a statement by a Member referring to another Member as operating in a "cheap, sneaky, sly way" was held to be unparliamentary by the Speaker, and was, on motion, stricken from the *Congressional Record* by the House. 120 CONG. REC. 29652, 29653, 93d Cong. 2d Sess., Aug. 21, 1974. A reference to a Member of the House as "pinko" has been held unparliamentary. 109 CONG. REC. 20742, 88th Cong. 1st Sess., Oct. 31, 1963. It is not in order in debate to refer to a Member as

having reached "bigoted" conclusions (113 CONG. REC. 22443, 90th Cong. 1st Sess., Aug. 14, 1967), and a description of a Member as "a mouthpiece for the AMA [American Medical Association]" may be objected to as unparliamentary. 108 CONG. REC. 9739, 87th Cong. 2d Sess., June 5, 1962. Words used in debate accusing another Member of hypocrisy are out of order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 24, 1979. And while it may be appropriate in debate to characterize the effect of an amendment as deceptive or hypocritical, to characterize the motivation of a Member in offering an amendment with those terms is not in order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979 [H.R. 2444]. In one instance, the statement in debate that "an amendment like this can only be demagogic or racist because it is only demagoguery or racism which impels such an amendment" was held by the Speaker to be unparliamentary as impugning the motives of the Member offering the amendment. 119 CONG. REC. 41270, 41271, 93d Cong. 1st Sess., Dec. 13, 1973.

§ 16.2 Statements in debate, although critical of the legislation at issue, may be ruled in order if they do not improperly reflect on the House or a particular Member. Thus, a statement in debate that a Member has "admitted that his amendment does not make sense, and he will take any alternative that is offered" was held not to be unparliamentary. 110 CONG. REC. 756, 88th Cong. 2d Sess., Jan. 21, 1964. A statement in debate which characterizes a colleague's statement as "intemperate" was held in order (109 CONG. REC. 13865, 88th Cong. 1st Sess., Aug. 1, 1963), as was a Member's statement that "this is an example of the spurious reasoning that the AMA has with regard to their opposition to this bill." 108 CONG. REC. 4458, 87th Cong. 2d Sess., Mar. 19, 1962. A statement in debate that "you have your definition of consistency. My definition is that consistency is a virtue of small minds" was held not to reflect upon a Member and not to be unparliamentary. 108 CONG. REC. 6374, 87th Cong. 2d Sess., Apr. 11, 1962.

§ 17. Procedure; Words Taken Down

§ 17.1 Under the House rules, where a Member is called to order for words spoken in debate, the Member calling him to order "shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened." (Clause 5 Rule XIV.)

§ 17.2 A Member called to order for words spoken in debate is required to take his seat (107 CONG. REC. 4780, 87th Cong. 1st Sess., Mar. 24, 1961), unless permitted to proceed in order by the House. 113 CONG. REC. 22443, 90th Cong. 1st Sess., Aug. 14, 1967. Once required to take his seat because of unparliamentary language, the Member may proceed in order only with the consent of the House. 109 CONG. REC. 20742, 20744, 88th Cong. 1st Sess., Oct. 31, 1963; 120 CONG. REC. 29652, 29653, 93d Cong. 2d Sess., Aug. 21, 1974. A Member called to order in debate for unparliamentary language may be recognized to ask unanimous consent to withdraw the words. 110 CONG. REC. 10448, 88th Cong. 2d Sess., May 11, 1964.

§ 17.3 *Note:* Where the demand is made that certain words used in debate be taken down in the House, the business of the House is suspended until the words are reported to the House. See 120 CONG. REC. 29652, 29653, 93d Cong. 2d Sess., Aug. 21, 1974.

§ 17.4 Words objected to in the Committee of the Whole are reported to the House. 107 CONG. REC. 4780, 87th Cong. 1st Sess., Mar. 24, 1961; 109 CONG. REC. 13865, 88th Cong.

1st Sess., Aug. 1, 1963; 110 CONG. REC. 13275, 88th Cong. 2d Sess., June 10, 1964. The business of the Committee is suspended until the words objected to are reported to the House. 119 CONG. REC. 41270, 41271, 93d Cong. 1st Sess., Dec. 13, 1973; 124 CONG. REC. 2832, 95th Cong. 2d Sess., Feb. 8, 1978 [H.R. 6805]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979. All of the words objected to in Committee should be reported to the House. The Speaker can pass only on the words as reported; a demand that additional words uttered in Committee be reported is not in order in the House. 111 CONG. REC. 18444, 89th Cong. 1st Sess., July 27, 1965.

§ 17.5 After the Speaker has ruled on words taken down in Committee, the House automatically again resolves into the Committee of the Whole. 111 CONG. REC. 6107, 89th Cong. 1st Sess., Mar. 26, 1965; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979. Where the Speaker has ruled upon words taken down, and has ordered the Committee to resume its sitting, a point of order of no quorum in the House comes too late and is not in order. 117 CONG. REC. 40442, 92d Cong. 1st Sess., Nov. 10, 1971.

§ 18. — Demands That Words Be Taken Down; Explanations and Interpretations

§ 18.1 A demand that words be taken down is in order only if made in a timely manner. The demand should be made immediately after the words are uttered. 109 CONG. REC. 20742, 88th Cong. 1st Sess., Oct. 31, 1963. Where debate has intervened, the demand comes too late. 115 CONG. REC. 24372, 91st Cong. 1st Sess., Sept. 4, 1969; 122 CONG. REC. 11981, 94th Cong. 2d Sess., Apr. 29, 1976 [H. Con. Res. 611].

§ 18.2 In determining whether words are unparliamentary, the Speaker's determination is based on the words taken down, and pending his decision, debate on or interpretation of those words is not in order. 108 CONG. REC. 4458, 87th Cong. 2d Sess., Mar. 19, 1962.

§ 18.3 A Member called to order because of words spoken in debate must take his seat and may not proceed to explain his utterance or his intention without the permission of the House. 109 CONG. REC. 13865, 88th Cong. 1st Sess., Aug. 1, 1963. Although words objected to in debate may be withdrawn pursuant to a unanimous-consent request (§ 19, infra), no debate is in order pending such a request. 124 CONG. REC. 23945, 95th Cong. 2d Sess., Aug. 2, 1978. However, the offending Member may by unanimous consent (or on motion by another Member) be permitted to explain his words. 117 CONG. REC. 40442, 92d Cong. 1st Sess., Nov. 10, 1971.

§ 18.4 While a demand that words be taken down is pending, the Speaker may refuse to entertain a parliamentary inquiry (109 CONG. REC. 20742, 88th Cong. 1st Sess., Oct. 31, 1963) or a unanimous-consent request that a Member be allowed to proceed for one minute. 110 CONG. REC. 756, 88th Cong. 2d Sess., Jan. 21,1964.

§ 18.5 The Chair may decline to rule, in advance of a speech to be given under a special order, whether the announced topic for the speech is parliamentary. 107 CONG. REC. 21466, 87th Cong. 1st Sess., Sept. 26 [Legislative Day, Sept. 25], 1961.

§ 18.6 A demand in the Committee of the Whole that words be taken down may be withdrawn by the Member making the demand, and unanimous consent is not required. 110 CONG. REC. 2780, 88th Cong. 2d Sess., Feb. 10, 1964; 117 CONG. REC. 40470, 92d Cong. 1st Sess., Nov. 10, 1971; 124 CONG. REC. 24238, 95th Cong. 2d Sess., Aug 3, 1978.

§ 19. — Withdrawal and Expungement; Motions to Proceed in Order

§ 19.1 Words objected to in debate in the House may be withdrawn by unanimous consent. 110 CONG. REC. 10448, 88th Cong. 2d Sess., May 11, 1964. Even after a Member's words have been taken down on demand and read to the House, the Speaker may recognize the Member who made the statement to ask unanimous consent to withdraw or modify the words. 108 CONG. REC. 9739, 87th Cong. 2d Sess., June 5, 1962; 123 CONG. REC. 5937, 95th Cong. 1st Sess., Mar. 2, 1977 [H. Res. 287]; 124 CONG. REC. 20715, 95th Cong. 2d Sess., July 13, 1978.

§ 19.2 A Member may withdraw words objected to in Committee of the Whole by unanimous consent. 109 CONG. REC. 13865, 88th Cong. 1st Sess., Aug. 1, 1963; 110 CONG. REC. 13254, 13275, 88th Cong. 2d Sess., June 10, 1964. Two Members demanded that each other's words be taken down and then, by unanimous consent, withdrew their remarks in the Committee of the Whole before they were reported to the House. 122 CONG. REC. 11882, 94th Cong. 2d Sess., Apr. 29, 1976 [H. Con. Res. 611]. Compare 123 CONG. REC. 5349, 95th Cong. 1st Sess., Feb. 24, 1977 [H.R. 11]. See also 124 CONG. REC. 23945, 95th Cong. 2d Sess., Aug. 3, 1978, where words objected to in debate were withdrawn by unanimous consent, prior to being reported to the House. Where a Member objects to unparliamentary remarks delivered in debate in Committee of the Whole, but does not demand that the words be taken down, it is appropriate for the Chairman to direct that Members proceed in order. 124 CONG. REC. 13215, 95th Cong. 2d Sess., May 8, 1978.

§ 19.3 When the Speaker has ruled that words used in debate are out of order pursuant to a demand that the words be taken down, the words may be stricken from the Record with the consent of the House, and the Member using the words may not demand that the words remain in the Record. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 24, 1979.

§ 19.4 A motion to strike from the Record certain words reported from the Committee of the Whole is in order where the Speaker has held the words unparliamentary. 107 CONG. REC. 4780, 87th Cong. 1st Sess., Mar. 24, 1961. It is then in order to offer a motion that the Member whose words were ruled out be permitted to proceed in order; such motion is privileged and is not subject to debate. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 12, 1979 [H.R. 2444].

§ 19.5 *Note:* The official reporters do not make deletions of unparliamentary words on their own initiative; a Member making a unanimous-consent request to withdraw such words should correct his remarks in the *Congressional Record* to correspond with his request. A motion to permit the offended Member to proceed in order is in order after the words have been ruled out and stricken from the Record.

E. DURATION OF DEBATE IN THE HOUSE

§ 20. In General; Debate in the House

§ 20.1 General debate in the House is governed by the hour rule (clause 2 Rule XIV) (115 CONG. REC. 2835, 91st Cong. 1st Sess., Feb. 5, 1969), which is applicable in the House even prior to the adoption of the rules. 113 CONG. REC. 14, 90th Cong. 1st Sess., Jan. 10, 1967.

§ 20.2 A Member calling up a measure in the House pursuant to a request or special order which does not specify debate time controls one hour of debate thereon and may offer an amendment thereto and move the previous question on the amendment and on the measure. 123 CONG. REC. 36970, 36971, 95th Cong. 1st Sess., Nov. 3, 1977 [H.J. Res. 643].

§ 20.3 Debate on a privileged resolution is under the hour rule and the Member recognized to call it up has control of the time. 109 CONG. REC. 3051, 88th Cong. 1st Sess., Feb. 27, 1963 [H. Res. 146]; 117 CONG. REC. 4584, 4593, 92d Cong. 1st Sess., Mar. 2, 1971 [H. Res. 264]; 117 CONG. REC. 24723, 24752, 92d Cong. 1st Sess., July 13, 1971 [H. Res. 534]; 117 CONG. REC. 29060, 29063, 92d Cong. 1st Sess., Aug. 3, 1971 [H. Res. 557]; see also 110 CONG. REC. 7303, 7308, 88th Cong. 2d Sess., Apr. 8, 1964, indicating that a Member calling up a privileged resolution is recognized for a full hour notwithstanding the fact that he had previously called up the resolution and, after debate, had withdrawn it.

§ 20.4 Debate in the House on a resolution reported from the Committee on Rules is under the hour rule. 118 CONG. REC. 21694, 92d Cong. 2d Sess., June 21, 1972 [H. Res. 996]; 109 CONG. REC. 8512, 8518-20, 88th Cong. 1st Sess., May 14, 1963. And time consumed on a committee amendment reported at the beginning of the hour runs concurrently with debate on the resolution. 122 CONG. REC. 1632, 94th Cong. 2d Sess., Jan. 29, 1976 [H. Res. 982].

§ 20.5 A Member recognized to offer an amendment to a measure following rejection of the previous question in the House controls one hour of debate on the amendment. 119 CONG. REC. 15273–81, 93d Cong. 1st Sess., May 10, 1973 [H. Res. 389]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 24, 1979 [H.J. Res. 74]. He controls one full hour of debate and is not compelled to yield one-half of that time to Members opposed to the amendment. 117 CONG. REC. 39948, 39957, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191]. If the previous question and a motion to lay the measure on the table are rejected, the Chair may recognize a Member in opposition to the measure under the hour rule. 112 CONG. REC. 27725, 89th Cong. 2d Sess., Oct. 19, 1966 [H. Res. 1013]. Where a Member calling up the measure in the House uses part of his hour of debate and then offers a motion to table the measure which is defeated, the Chair normally recognizes another Member for an hour of debate; but where no other Member seeks recognition, the Chair may recognize the Member who called up the measure to control the remainder of his hour of debate. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 15, 1979 [H. Res. 291].

§ 20.6 When Senate amendments are considered in the House, debate is under the hour rule. 106 CONG. REC. 18357, 86th Cong. 2d Sess., Aug. 30, 1960 [S. 1898]. Thus, debate on a motion to concur in Senate amendments is governed by the hour rule. 113 CONG. REC. 19033, 90th Cong. 1st Sess., July 17, 1967 [S. J. Res. 81].

§ 20.7 Where a joint resolution not requiring consideration in Committee of the Whole is before the House pursuant to a motion to discharge, the Member who made the motion for its immediate consideration is recognized in the House under the hour rule. 117 CONG. REC. 39889, 39892, 92d Cong. 1st Sess., Nov. 8, 1971 [H.J. Res. 191].

§ 20.8 Where a Member rises to a question of the privileges of the House and presents a resolution, he is recognized under the hour rule. 114 CONG. REC. 17970-72, 17977, 90th Cong. 2d Sess., June 20, 1968 [H.R. 15415].

§ 20.9 When a District of Columbia bill on the House Calendar is called up on District Day [clause 8 Rule XXV], the bill is considered in the House under the hour rule. 107

CONG. REC. 10068, 87th Cong. 1st Sess., June 12, 1961 [H.R. 7053].

§ 21. Debate in the House as in Committee of the Whole

§ 21.1 Debate on a bill being considered in the House as in Committee of the Whole is under the five-minute rule. 112 CONG. REC. 24080, 89th Cong. 2d Sess., Sept. 28, 1966 (five-minute rule applicable to bill being considered by unanimous consent); 113 CONG. REC. 17183-86, 90th Cong. 1st Sess., June 26, 1967 [H.R. 10783]; 113 CONG. REC. 26956 et seq., 90th Cong. 1st Sess., Sept. 27, 1967 [H.J. Res. 849].

§ 21.2 Debate on a bill being considered in the House as in Committee of the Whole is under the five-minute rule, and a Member who has spoken for five minutes on the bill may be recognized on another pro forma amendment to the bill only by unanimous consent. 118 CONG. REC. 29950, 29952, 29956, 92d Cong. 2d Sess., Sept. 11, 1972 [H.R. 15550]. 123 CONG. REC. 36613, 95th Cong. 1st Sess., Nov. 2, 1977 [H.J. Res. 621].

§ 21.3 Where the House, during a call of the Consent Calendar, grants unanimous consent for the immediate consideration of a bill on the Union Calendar or of an identical Senate bill, the bill is considered in the House as in Committee of the Whole under the five-minute rule. 116 CONG. REC. 26918, 91st Cong. 2d Sess., Aug. 3, 1970 [H.R. 9804 and S. 2882].

§ 21.4 When a bill on the Union Calendar is considered in the House as in Committee of the Whole, debate is under the five-minute rule; and extensions of time for debate are permitted only by unanimous consent. 115 CONG. REC. 20850, 91st Cong. 1st Sess., July 28, 1969 [H.R. 9553], noting, however, that where objection is raised to a unanimous-consent request that a bill called up by the Committee on the District of Columbia be considered in the House as in Committee of the Whole, a motion that the House resolve into the Committee is in order; and absent an agreement in the House limiting the time for general debate in Committee, debate in the Committee of the Whole is under the hour rule.

§ 21.5 Where a joint resolution requiring consideration in the Committee of the Whole is called up by unanimous consent, it is considered in the House as in the Committee of the Whole and is subject to debate under the five-minute rule. 114 CONG. REC. 28374, 90th Cong. 2d Sess., Sept. 26, 1968 [H.J. Res. 1461].

§ 21.6 A Senate joint resolution at the Speaker's desk was called up by unanimous consent and considered under the five-minute rule. 113 CONG. REC. 20604, 90th Cong. 1st Sess., July 31, 1967 [S.J. Res. 98].

§ 21.7 Private Calendar debate, under the five-minute rule, is strictly limited to five minutes in favor of and five in opposition to an amendment; and extensions of time under the five-minute rule are not permitted. 113 CONG. REC. 36535-37, 90th Cong. 1st Sess., Dec. 14, 1967 [H. Res. 981].

§ 21.8 A Member who has been recognized for five minutes where the House is proceeding in the House as in the Committee of the Whole, and who is declined recognition to offer a motion during such five minutes, is entitled to use or to yield the remainder of his time. 123 CONG. REC. 9575, 95th Cong. 1st Sess., Mar. 30, 1977.

§ 21.9 By unanimous consent, a resolution privileged for consideration in the Committee of the Whole pursuant to a statute may be considered in the House as in the Committee of the Whole in order to permit five-minute debate. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 10, 1979 [H. Res. 209]. And although a resolution called up under a statute may not be subject to substantive amendment under the provisions of that act, pro forma

amendments for the purpose of debate under the five-minute rule are permitted where the resolution is being considered in the House as in the Committee of the Whole by unanimous consent. 123 CONG. REC. 36613, 95th Cong. 1st Sess., Nov. 2, 1977 [H.J. Res. 621].

§ 22. Fixing or Closing Time for Debate; Extensions of Time

§ 22.1 *Note:* The usual motion for closing debate in the House (as distinguished from the Committee of the Whole) is the motion for the previous question. This motion is also used to close debate in the House as in Committee of the Whole. 115 CONG. REC. 20855, 91st Cong. 1st Sess., July 28, 1969 [H.R. 9553].

§ 22.2 Time for debate under the hour rule in the House may be modified by unanimous consent. Thus, time for debate on three contempt citations reported by the Committee on the Judiciary was, by unanimous consent, fixed at three hours—two hours on the first citation and one-half hour on each of the remaining two. 106 CONG. REC. 17278, 86th Cong. 2d Sess., Aug. 23, 1960.

§ 22.3 Debate may be limited by motion on a measure being considered in the House as in Committee of the Whole, although that procedure is, under clause 6 Rule XXIII, normally confined to the Committee of the Whole where the motion for the previous question is not in order. 119 CONG. REC. 21305-07, 21314, 21315, 93d Cong. 1st Sess., June 26, 1973 [H.J. Res. 636].

§ 22.4 Debate on a privileged resolution in the House is under the hour rule, but such debate may be extended beyond one hour by unanimous consent. Thus, the House has agreed to a unanimous-consent request to extend the time for the debate in the House on a special rule reported from the Committee on Rules, to be controlled by the Member calling it up, with the assurance that one half the additional time would be yielded to the minority (123 CONG. REC. 22942, 95th Cong. 1st Sess., July 14, 1977 [H. Res. 658]), or with the understanding that the time would be equally divided and controlled. 123 CONG. REC. 25654, 95th Cong. 1st Sess., July 29, 1977 [H.Res. 727].

§ 22.5 A motion to extend the time for debate in the House is not in order. 118 CONG. REC. 20678, 20681, 92d Cong. 2d Sess., June 13, 1972. A Member may not address the House for more than one hour on any subject, even by unanimous consent. 115 CONG. REC. 15440, 91st Cong. 1st Sess., June 11, 1969; 122 CONG. REC. 5906, 94th Cong. 2d Sess., Mar. 9, 1976.

§ 22.6 A Member may not address the House for one minute more than once before the business of the day, and the Speaker has refused to recognize Members for unanimous-consent requests to proceed for a longer period. 109 CONG. REC. 10633, 88th Cong. 1st Sess., June 11, 1963.

§ 22.7 Unanimous-consent requests to proceed "for one additional minute," while not entertained by the Chair at the beginning of the day, are sometimes permissible during special order speeches when legislative business has been concluded. 109 CONG. REC. 10891, 88th Cong. 1st Sess., June 13, 1963. However, a motion to that effect is not in order. 118 CONG. REC. 20678, 20681, 92d Cong. 2d Sess., June 13, 1972.

F. DURATION OF DEBATE IN COMMITTEE OF THE WHOLE

§ 23. In General; Effect of Special "Rule"

§ 23.1 *Note:* When the House resolves into the Committee of the Whole without fixing

the time for debate each Member recognized has one hour. And when general debate is closed in the Committee of the Whole, any Member is allowed five minutes' debate on an amendment he offers, after which the Member who first obtains the floor has five minutes in opposition. These time limitations do not apply, of course, where the measure is called up pursuant to a special "rule" or resolution which requires that a different period of time be devoted to debate.

§ 23.2 A resolution, eligible for consideration in the House as privileged business and subject to one hour of debate, was, pursuant to a special order, considered in the Committee of the Whole and debated for two hours. 114 CONG. REC. 8776, 90th Cong. 2d Sess., Apr. 3, 1968 [H. Res. 1119].

§ 23.3 While under a special rule a Member may have control of more than one hour of general debate on a bill in Committee of the Whole, he may not, under the general rules of the House, yield himself more than one hour for debate. 117 CONG. REC. 21096, 92d Cong. 1st Sess., June 21, 1971 [H.R. 1].

§ 23.4 When a measure is being considered under a "closed rule"—that is, a special resolution reported from the Committee on Rules under which amendments may be offered only at the direction of the committee reporting the bill and prohibiting amendments to amendments—only two five-minute speeches are in order on each amendment, one in support and one in opposition, and the Chair gives preference in recognition to members of the committee reporting the bill. 106 CONG. REC. 10576, 86th Cong. 2d Sess., May 18, 1960 [H.R. 5]; 108 CONG. REC. 22636, 87th Cong. 2d Sess., Oct. 5, 1962 [H. Con. Res. 570]; 111 CONG. REC. 5099, 89th Cong. 1st Sess., Mar. 16, 1965. A Member may obtain additional debate time only by unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 6, 1979 [H.R. 3236]. Since only the two five-minute speeches are in order, pro forma amendments are not permitted, and a third Member may be recognized only by unanimous consent. 123 CONG. REC. 6632, 95th Cong. 1st Sess., Mar. 8, 1977 [H.R. 3477]. A third Member is not entitled to recognition notwithstanding the fact that the second Member, recognized in opposition, actually spoke in favor of the amendment. 106 CONG. REC. 10579, 86th Cong. 2d Sess., May 18, 1960 [H.R. 5].

These limitations on debate are also applied where the bill is being considered under terms of a special order providing for a "modified closed rule." 119 CONG. REC. 37151, 37152, 37158, 27159, 93d Cong. 1st Sess., Nov. 15, 1973 [H.R. 11333]. Thus, where the special rule permits only committee amendments and one amendment to strike out a designated portion and precludes amendments thereto, only five minutes of debate in support of and five minutes in opposition to the motion to strike out are in order, and a Member may not obtain additional time by rising in support of the amendment. 117 CONG. REC. 4879-81, 92d Cong. 1st Sess., Mar. 3, 1971 [H.R. 4690]. Similarly, where a bill is being considered under a special procedure which permits only committee amendments to title I, only the text of a designated resolution as an amendment to title II, and one motion to strike out title III, only five minutes of debate in support of and five minutes in opposition to each amendment is in order. 118 CONG. REC. 34633, 92d Cong. 2d Sess., Oct. 10, 1972 [H.R. 16810].

§ 24. General Debate

§ 24.1 The duration and allocation of time for general debate in Committee of the Whole is controlled by the House, not the Committee. 116 CONG. REC. 42222, 91st Cong. 2d Sess., Dec. 17, 1970 [H.R. 19446]. Such control may be exercised through the adoption of a unanimous-consent request (114 CONG. REC. 19105, 90th Cong. 2d Sess., June 27, 1968) or the adoption of a special rule from the Committee

on Rules. 112 CONG. REC. 23785, 23946, 89th Cong. 2d Sess., Sept. 26, 1966 [H.R. 1511]. The Committee of the Whole may not, even by unanimous consent, extend the general debate time fixed by the House. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 22, 1980.

§ 24.2 Where it is in order for the House to resolve into the Committee of the Whole, and there is no agreement in the House limiting the time for general debate in Committee, debate in the Committee of the Whole is under the hour rule. 115 CONG. REC. 20850, 91st Cong. 1st Sess., July 28, 1969 [H.R. 9553]. And a Member having control of such time may not consume more than one hour. 108 CONG. REC. 3484, 3489, 87th Cong. 2d Sess., Mar. 6, 1962 [H.R. 10526]; 115 CONG. REC. 21174-78, 91st Cong. 1st Sess., July 29, 1969 [H.R. 13111].

§ 24.3 General debate in the Committee of the Whole may be limited and divided by the House by unanimous consent. 114 CONG. REC. 19105, 90th Cong. 2d Sess., June 27, 1968. Prior to resolving into the Committee, the House may by unanimous consent limit general debate to a time certain and provide that at the conclusion of general debate the Committee shall rise. 109 CONG. REC. 6044, 6073, 88th Cong. 1st Sess., Apr. 9, 1963 [H.R. 5517]. If objection is raised to the unanimous-consent request, the Speaker puts the question on the motion to go into Committee. 110 CONG. REC. 18949, 88th Cong. 2d Sess., Aug. 11, 1964 [H.R. 9774]. After general debate had begun in the Committee and the Committee rises, a motion in the House to limit further general debate is in order (see 5 Hinds' Precedents §§ 5204-06).

§ 24.4 Where the House has divided the control of general debate in Committee of the Whole between the chairman and ranking minority member of the committee which reported the bill, it is not in order for a Member to whom time has been yielded to ask unanimous consent for additional time, for time is controlled by those to whom it is allotted by the House and is not subject to extension by the Committee. 116 CONG. REC. 42222, 91st Cong. 2d Sess., Dec. 17, 1970 [H.R. 19446].

§ 24.5 Where a bill is being considered in the Committee of the Whole under a rule specifying the time for general debate, the managers of the bill need not use all of the prescribed time but may agree among themselves to terminate further general debate and begin consideration of the bill under the five-minute rule. Such agreement is between the managers of the bill and is not an agreement of the Committee of the Whole. However, the Chair takes cognizance of the agreement and may announce it to the Committee. 112 CONG. REC. 23785, 23946, 89th Cong. 2d Sess., Sept. 26, 1966 [H.R. 1511]. Similarly, by unanimous consent and by agreement among the Members controlling time for general debate on a bill in Committee of the Whole pursuant to a special order, a portion of each Member's remaining time for general debate may be yielded back. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 4, 1979 [H.R. 39]. Compare 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 10, 1979 [H.R. 39], where, by unanimous-consent request in the House, all time remaining for general debate on a bill pending in the Committee of the Whole was to be considered as having been yielded back upon resumption of consideration of the bill in Committee.

§ 25. Five-minute Debate

§ 25.1 *Note:* When general debate is closed in the Committee of the Whole, debate on amendments proceeds under the so-called five-minute rule. Clause 5 Rule XXIII.

§ 25.2 A motion to extend debate under the five-minute rule is not in order in the Committee of the Whole. 105 CONG. REC. 11302, 86th Cong. 1st Sess., June 18, 1959. A Member recognized under the five-minute rule may extend

his debate time only by unanimous consent, and a motion to that effect is not in order. 122 CONG. REC. 11622, 94th Cong. 2d Sess., Apr. 28, 1976 [H. Con. Res. 611].

§ 25.3 Generally, a Member may speak only once for five minutes on a pending amendment. This rule applies to the Member offering the amendment as well as any other Member. However, where there is pending an amendment and a substitute therefor, the Member offering the substitute may debate it for five minutes and subsequently be recognized to speak for or against the original amendment. Moreover, if debate on the pending amendment is limited, the five-minute rule is abrogated and Members who have already spoken on an amendment may be recognized again under the limitation. 116 CONG. REC. 26027, 91st Cong. 2d Sess., July 28, 1970 [H.R. 17654].

§ 25.4 A point of order that a Member cannot be recognized twice to debate an amendment under the five-minute rule comes too late after that Member has been recognized and has begun to speak. 117 CONG. REC. 18988, 92d Cong. 1st Sess., June 9, 1971 [H.J. Res. 617].

§ 25.5 A Member recognized to speak in favor of or in opposition to a pending amendment may later offer a pro forma amendment and thereby be entitled to a second five minutes for debate. 116 CONG. REC. 26027, 91st Cong. 2d Sess., July 28, 1970 [H.R. 17654]. But a Member who has been recognized for five minutes on a pro forma amendment cannot thereafter gain additional time by offering a second pro forma amendment. 111 CONG. REC. 6002, 89th Cong. 1st Sess., Mar. 25, 1965 [H.R. 2362]. And a Member who has consumed five minutes in support of an amendment which he has offered cannot, except by unanimous consent, obtain additional time by offering a pro forma amendment to his own amendment. 112 CONG. REC. 19662, 19664, 89th Cong. 2d Sess., Aug. 17, 1966 [H.R. 13228]; 120 CONG. REC. 20601, 20602, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]. In one instance, where the ranking minority member of the committee handling a bill had been recognized for five minutes on a pro forma amendment, the Chair refused him further recognition for a substantive amendment when several majority members of that committee were also seeking recognition. 111 CONG. REC. 18631, 89th Cong. 1st Sess., July 28, 1965 [H.R. 77]. And even when the Committee of the Whole resumes consideration of an amendment which has been debated by its proponent on a prior day, the proponent may speak again for five minutes on his amendment only by unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 12, 1979 [S. 423].

§ 25.6 A Member who has offered an amendment and spoken thereon is not precluded from seeking recognition to speak to a proposed amendment to his amendment. 113 CONG. REC. 32644, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388].

§ 25.7 Debate on the preferential motion that the Committee rise and report a bill back to the House with the recommendation that the enacting clause be stricken is limited to two five-minute speeches, and the Chair declines to recognize for requests for extensions of that time. 107 CONG. REC. 20298, 87th Cong. 1st Sess., Sept. 19, 1961 [H.R. 9118]. Only two five-minute speeches are permitted notwithstanding the fact that the second Member, recognized in opposition to the motion, spoke in favor thereof. 106 CONG. REC. 6026, 86th Cong. 2d Sess., Mar. 18, 1960. See also Ch. 19 § 12, supra.

§ 25.8 A Member may yield during debate under the five-minute rule while retaining the floor. 106 CONG. REC. 6162, 86th Cong. 2d Sess., Mar. 21, 1960. But the time consumed thereby comes out of that of the Member holding the floor. 114 CONG. REC. 16699, 90th Cong. 2d Sess., June 11, 1968 [H.R. 17734].

Time consumed in yielding for a unanimous-consent request or for propounding a parliamentary inquiry is also charged against the five minutes. 109 CONG. REC. 2462, 2488, 88th Cong. 1st Sess., Feb. 7, 1963 [H.R. 7152].

§ 25.9 By unanimous consent, consideration under the five-minute rule of part of a bill may be postponed until the following day (in order, for example, to accommodate an absent Member who proposed to offer an amendment to that part). 116 CONG. REC. 32215, 91st Cong. 2d Sess., Sept. 16, 1970 [H.R. 17654]. On the next day, a motion to return to that portion of the bill is in order. 116 CONG. REC. 32284, 91st Cong. 2d Sess., Sept. 17, 1970 [H.R. 17654].

G. LIMITING OR EXTENDING FIVE-MINUTE DEBATE

§ 26. In General; by the House

§ 26.1 The House, by unanimous consent, may agree to limit or extend debate under the five-minute rule in the Committee of the Whole, whether or not that debate has commenced. The House may by unanimous consent agree to an extension of time for such debate even after the Committee has previously agreed to terminate debate at an earlier time. 107 CONG. REC. 7869, 87th Cong. 1st Sess., May 11, 1961. However, time for debate having been fixed by the House, the Committee may not, even by unanimous consent, extend it. 105 CONG. REC. 11666, 86th Cong. 1st Sess., June 23, 1959.

§ 26.2 The right to limit debate on a pending section of a bill pending in the Committee of the Whole under the five-minute rule may be exercised by the House as well as by the Committee once that debate has begun. In an early decision Speaker Crisp held that the applicable House rule (Rule XXIII clause 6) did not give the Committee the exclusive right to limit debate on matters pending before it, and that a motion to limit debate on a section of a bill pending in Committee would lie in the House. 5 Hinds' Precedents § 5229. The contemporary practice is that while the House may by unanimous consent limit or extend five-minute debate on a measure pending in Committee, a motion to that effect is not in order unless made pending a motion to resolve into Committee of the Whole for further consideration of the measure under the five-minute rule. 107 CONG. REC. 7725, 7727, 87th Cong. 1st Sess., May 11, 1961. *Note:* In 1893, Rule XXIII clause 6 was amended to give in express terms the "House or the Committee" the power to close the five-minute debate. That change was not retained after the Fifty-third Congress, perhaps in recognition of the fact that the language was unnecessary in view of the practice of the House.

§ 26.3 Where all debate on a pending amendment in the nature of a substitute and all amendments thereto had expired, the Chairman of the Committee of the Whole indicated that whether the House could rescind a time limitation imposed by the Committee of the Whole was a matter for the Speaker, and not the Chairman, to determine. 119 CONG. REC. 41731, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450].

§ 27. By Motion in Committee of the Whole

§ 27.1 It is in order in the Committee of the Whole to move to limit or close debate under the five-minute rule, with respect to the portion of the text which is pending. 110 CONG. REC. 2614, 88th Cong. 2d Sess., Feb. 8, 1964 [H.R. 7152]; 116 CONG. REC. 20469, 91st Cong. 2d Sess., June 18, 1970 [H.R. 17070], where the Committee of the Whole agreed to

limit debate to 10 minutes on each amendment to be offered to a pending section of a bill.

§ 27.2 A motion to limit debate must, pursuant to clause 1 Rule XVI, be reduced to writing upon the demand of any Member. 119 CONG. REC. 41712, 41713, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450].

§ 27.3 The motion to limit debate under the five-minute rule is not debatable. 119 CONG. REC. 41712, 41713, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450]; 121 CONG. REC. 11534, 94th Cong. 1st Sess., Apr. 23, 1975; 123 CONG. REC. 15418, 95th Cong. 1st Sess., May 18, 1977 [H.R. 10].

§ 27.4 An agreement in the Committee of the Whole to a motion to limit debate on a pending amendment is not subject to a motion to reconsider. 113 CONG. REC. 13824, 90th Cong. 1st Sess., May 24, 1967 [H.R. 7819]. However, the Committee may by unanimous consent rescind an agreement it has previously made limiting debate. 112 CONG. REC. 18416, 89th Cong. 2d Sess., Aug. 5, 1966 [H.R. 14765]; 119 CONG. REC. 41731, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450].

§ 27.5 While it is customary for the Chair to recognize the manager of the pending bill to offer motions to limit debate, any Member may, pursuant to Rule XXIII clause 6, move to limit debate at the appropriate time in Committee of the Whole. 121 CONG. REC. 26223, 94th Cong. 1st Sess., July 31, 1975. But the Member managing the bill is entitled to prior recognition to move to close debate on a pending amendment (after the proponent has had his time) over other Members who desire to debate the amendment or offer amendments thereto. 116 CONG. REC. 38990, 91st Cong. 2d Sess., Nov. 25, 1970 [H.R. 19540]; 123 CONG. REC. 20288, 95th Cong. 1st Sess., June 22, 1977 [H.R. 7797].

§ 27.6 A motion to limit debate on an amendment and all amendments thereto (but not on the pending section) does not affect debate under the five-minute rule on another amendment subsequently offered to the same section of the bill. 123 CONG. REC. 20290, 95th Cong. 1st Sess., June 22, 1977. Similarly, a limitation on debate on a section of a bill and amendments thereto does not affect debate on an amendment adding a new section to the bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 1, 1979 [S. 1030]. Indeed, the Chair may decline to recognize a Member to offer such an amendment until perfecting amendments to the pending section have been disposed of under the limitation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R 3930].

§ 28. — When in Order; Privileged Nature

§ 28.1 Until a bill has been read for amendment in full or its reading dispensed with by unanimous consent, a motion to close or limit debate on the bill (and amendments thereto) is not in order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 27, 1979 [H.R. 4389]. It follows that such a motion may be ruled out where the bill has not been completely read. 111 CONG. REC. 17932, 89th Cong. 1st Sess., July 22, 1965 [H.R. 8283]; 121 CONG. REC. 16895, 94th Cong. 1st Sess., June 4, 1975 [H.R. 6219]. Until the last section of a bill being read by sections has been read, a motion to close debate on the entire bill is not in order. 111 CONG. REC. 6104, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362]. However, it is possible to limit debate on a bill by unanimous consent although the reading thereof has not been completed. 112 CONG. REC. 10911, 89th Cong. 2d Sess., May 18, 1966 [H.R. 14544]; 114 CONG. REC. 26566, 26574, 90th Cong. 2d Sess., Sept. 12, 1968 [H.R. 18707].

§ 28.2 A motion to limit debate on a pending amendment in the nature of a substitute and all amendments thereto is in order although the bill itself has not been read. 122 CONG. REC.

17380, 94th Cong. 2d Sess., June 10, 1976 [H.R. 13367].

§ 28.3 A motion to close debate on a section of a bill not yet reached in the reading of the bill for amendment is not in order. 115 CONG. REC. 21676, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111]. Similarly, when a bill is being read by titles, debate under the five-minute rule on titles that have not been read may not be closed except by unanimous consent. 110 CONG. REC. 2614, 88th Cong. 2d Sess., Feb. 8, 1964 [H.R. 7152].

§ 28.4 A motion to limit or close debate under the five-minute rule is not in order until debate has begun. Thus, a motion to close debate on a section of a bill is not in order until there has been some debate thereon. 111 CONG. REC. 6097, 6104, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362]. Likewise, until there has been some debate on a pending amendment, a motion to limit debate on the amendment is not in order. 113 CONG. REC. 32349, 90th Cong. 1st Sess., Nov. 14, 1967 [S. 2388]. After debate has begun, however, a motion to close debate under the five-minute rule is privileged. Indeed, the motion to close debate has been held in order after one speech, even though the Member making the speech, after gaining recognition to strike out the last word, obtained consent to speak out of order. 111 CONG. REC. 6098, 6104, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362].

§ 28.5 A motion to limit debate on an amendment, while privileged, cannot deprive another Member of the floor. 110 CONG. REC. 5118, 88th Cong. 2d Sess., Mar. 12, 1964. Once pending, however, that motion must be disposed of prior to further recognition by the Chair. 108 CONG. REC. 9713, 87th Cong. 2d Sess., June 5, 1962 [H.R. 11665].

§ 28.6 A motion to limit debate on an amendment (whether an original amendment, amendment in the nature of a substitute, or a substitute therefor) and all amendments thereto, is not precluded by the pendency of an amendment to the amendment. 113 CONG. REC. 22754, 90th Cong. 1st Sess., Aug. 16, 1967.

§ 28.7 Where a bill is pending in Committee pursuant to a special rule making in order a motion to strike out a title thereof and insert a new text, to be read by section for amendment, a motion is in order to close debate under the five-minute rule on a section of the new text which has been read for amendment. 123 CONG. REC. 24974, 95th Cong. 1st Sess., July 26, 1977.

§ 29. By Unanimous Consent in Committee of the Whole

§ 29.1 Debate under the five-minute rule in the Committee of the Whole may be closed or limited by the Committee by unanimous consent (or after preliminary debate, by motion, as indicated in § 27, supra). 107 CONG. REC. 7725, 87th Cong. 1st Sess., May 10, 1961; 110 CONG. REC. 2614, 88th Cong. 2d Sess., Feb. 8, 1964 [H.R. 7152]. An extension of the time which has been fixed for five-minute debate is likewise permitted by unanimous consent. 106 CONG. REC. 14055-58, 86th Cong. 2d Sess., June 23, 1960 [H.R. 12261]; 113 CONG. REC. 32691-94, 90th Cong. 1st Sess., Nov. 15, 1967 [S. 2388]; 123 CONG. REC. 34714, 95th Cong. 1st Sess., Oct. 20, 1977 [H.R. 9375].

§ 29.2 In limiting debate by unanimous consent under the five-minute rule, the Committee of the Whole may specify an appropriate time frame and also include provisions as to the control of the time. Thus, the Committee may limit debate to: 15 minutes on each amendment that might be offered (112 CONG. REC. 26968, 89th Cong. 2d Sess., Oct. 14, 1966 [S. 3708]); 20 minutes on a side, time on each side to be controlled by the majority and minority members in charge of the bill (112 CONG. REC. 10232, 89th Cong. 2d Sess., May 10, 1966 [H.R. 14324]); 30 minutes on a pending motion

to strike, the time to be controlled equally by the managers of the bill (112 CONG. REC. 18207, 89th Cong. 2d Sess., Aug. 4, 1966 [H.R. 14765]); one hour, the time to be divided between the majority and minority sides and controlled by the subcommittee chairman handling the bill and the proponent of the amendment (112 CONG. REC. 11608, 89th Cong. 2d Sess., May 26, 1966 [H.R. 13712]); two hours, controlled by the chairman and ranking member of the reporting committee. 111 CONG. REC. 16036-38, 89th Cong. 1st Sess., July 8, 1965 [H.R. 6400].

§ 29.3 The Chairman may decline to entertain a unanimous-consent request regarding a limitation of time for debate on a measure during the reading of the measure (121 CONG. REC. 29323, 94th Cong. 1st Sess., Sept. 18, 1975 [H.R. 7014]) or absent a prior waiver of the reading. See 121 CONG. REC. 23112, 94th Cong. 1st Sess., July 16, 1975 [H. Res. 591]. A more orderly procedure would be to include the waiving of the reading of the bill in the unanimous-consent request to limit debate. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 1, 1979 [S. 1030].

§ 29.4 By unanimous consent, the Committee of the Whole may agree that when it resumes consideration of a pending bill on the following day, debate on all amendments to the bill would be limited to a fixed period (118 CONG. REC. 10673, 92d Cong. 2d Sess., Mar. 28, 1972 [H.R. 11896]), or that further debate close in one hour, "half (to be consumed) today and half" when the Committee resumes its sitting on the following day. 106 CONG. REC. 13874, 86th Cong. 2d Sess., June 22, 1960. The Committee has also agreed to a unanimous-consent request that all debate on a pending bill and amendments thereto terminate by a time certain on the following day. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979, [H.R. 111].

§ 29.5 A time limitation on debate imposed by the Committee of the Whole may be rescinded or modified by the Committee only by unanimous consent. 121 CONG. REC. 28904, 94th Cong. 1st Sess., Sept. 17, 1975 [H.R. 7014]; 123 CONG. REC. 6193, 95th Cong. 1st Sess., Mar. 3, 1977 [H.R. 3839]; 123 CONG. REC. 13681, 95th Cong. 1st Sess., May 5, 1977 [H. Con. Res. 214]. Thus, the Committee having limited debate, the Chair declines to recognize for a motion to extend the time, but a unanimous-consent request to extend or allot the time may be entertained. 114 CONG. REC. 16699, 90th Cong. 2d Sess., June 11, 1968 [H.R. 17734]. In one instance, where debate on a pending amendment and all amendments thereto had been limited by unanimous consent to a time certain, the Committee by unanimous consent vacated the limitation and then agreed to limit debate only on an amendment to the pending amendment. 117 CONG. REC. 34289, 92d Cong. 1st Sess., Sept. 30, 1971 [H.R. 10351].

§ 29.6 *Note:* Where the Committee of the Whole has limited debate on a pending amendment in the nature of a substitute and all amendments thereto, a motion to further limit debate on each amendment as it is offered to the pending amendment in the nature of a substitute would be in order, but it is not in order by motion to change the overall limitation imposed by the Committee on the amendment and all amendments thereto.

§ 29.7 Where a committee amendment in the nature of a substitute was being read by titles as an original bill for amendment, the Committee of the Whole agreed, by unanimous consent: (1) that the remainder of the committee amendment be considered as read and open to amendment at any point; (2) that all debate on the bill and all amendments thereto conclude in three hours plus additional time claimed upon offering of amendments printed in the *Congressional Record;* and (3) that designated portions of the three hours be allotted to each remaining title of the committee amendment. 120 CONG. REC. 24621, 24622, 93d Cong. 2d

Sess., July 23, 1974 [H.R. 11500, the Surface Mining Control and Reclamation Act of 1974].

§ 29.8 Where a bill was being read for amendment by titles instead of by sections, the Chair declined to entertain a unanimous-consent request to limit debate on just one section within that title where such an agreement would have been difficult to enforce. 122 CONG. REC. 30464, 94th Cong. 2d Sess., Sept. 15, 1976 [H.R. 10498].

§ 29.9 While there is pending in the Committee of the Whole a unanimous-consent request that a Member be allowed additional time under the five-minute rule, the Chair will dispose of that request before recognizing another Member to ask unanimous consent to limit debate on the pending amendment. 123 CONG. REC. 14111, 95th Cong. 1st Sess., May 10, 1977.

§ 29.10 The Chair may decline to entertain a unanimous-consent request to limit time under the five-minute rule to "ten minutes after [a Member] has had an opportunity to offer his substitute amendment" since the presentation of that amendment might be precluded by the adoption of a pending amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930].

§ 30. Provisions Allocating or Reserving Time

§ 30.1 A motion to limit debate under the five-minute rule in Committee of the Whole is not in order if it includes a reservation of time for any special purpose. 115 CONG. REC. 25633, 91st Cong. 1st Sess., Sept. 16, 1969 [H.J. Res. 681]; 119 CONG. REC. 15010, 15011, 93d Cong. 1st Sess., May 9, 1973 [H.R. 6370]. Such a motion may not include a reservation of time for the reporting committee (113 CONG. REC. 15903, 90th Cong. 1st Sess., June 15, 1967 [H.J. Res. 559] and 118 CONG. REC. 18035, 92d Cong. 2d Sess., May 18, 1972 [H.R. 14989]) or for a particular Member. 118 CONG. REC. 34137, 92d Cong. 2d Sess., Oct. 5, 1972 [H.R. 16656]; 122 CONG. REC. 19251, 94th Cong. 2d Sess., June 18, 1976 [H.R. 13179]. The motion may not include a reservation of time to the "majority side" (112 CONG. REC. 24105, 89th Cong. 2d Sess., Sept. 28, 1966 [H.R. 15111]), nor may it include a provision for division of time between the proponents and opponents of the pending amendment. 113 CONG. REC. 13824, 90th Cong. 1st Sess., May 24, 1967 [H.R. 7819]; 117 CONG. REC. 43406, 92d Cong. 1st Sess., Nov. 30, 1971 [H.R. 11060]. Even the proponent of the motion is precluded from including it in a reservation of time for himself. 121 CONG. REC. 17187, 94th Cong. 1st Sess., June 5, 1975; 122 CONG. REC. 30464, 94th Cong. 2d Sess., Sept. 15, 1976 [H.R. 10498]. However, a point of order against a motion to close debate and reserve time comes too late after the question has been put and agreed to. 106 CONG. REC. 14088, 86th Cong. 2d Sess., June 23, 1960 [H.R. 12740].

§ 30.2 Where there is pending an amendment in the nature of a substitute for a bill, motions under clause 6 Rule XXIII to limit debate on amendments to the substitute may not include an allocation of time, such an allocation being in order only by unanimous consent. 119 CONG. REC. 41711-14, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450].

§ 30.3 The Committee of the Whole may, by unanimous consent, limit debate on a bill or amendment and reserve part of the time. 106 CONG. REC. 12250, 86th Cong. 2d Sess., June 9, 1960 [H.R. 12049]. Thus, the Committee may, during the reading of a bill under the five-minute rule, limit debate by unanimous consent and include in the request a reservation of the last portion of time to the committee handling the bill. 109 CONG. REC. 8144, 88th Cong. 1st Sess., May 9, 1963 [H.R. 950]. The same procedure may be used to limit debate and reserve a certain amount of time

for certain Members. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 39].

§ 30.4 Where by unanimous consent the final portion of debate under a limitation has been reserved to the manager of the bill, and that Member has also consumed five minutes in opposition to a preferential motion to strike the enacting clause, he is nevertheless recognized again where all other time under the limitation has been preempted by debate on the preferential motion. 122 CONG. REC. 30470, 94th Cong. 2d Sess., Sept. 15, 1976 [H.R. 10498].

§ 31. Distribution of Time by the Chair

§ 31.1 A limitation of debate on a bill and all amendments thereto to a time certain in effect abrogates the five-minute rule. 116 CONG. REC. 14467, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123]; 120 CONG. REC. 25214, 93d Cong. 2d Sess., July 25, 1974 [H.R. 11500]; 123 CONG. REC. 18833, 95th Cong. 1st Sess., June 14, 1977 [H.R. 7553]. Decisions regarding the division of the remaining time among those Members desiring to speak, a division not having been decided by the Committee as part of the limitation, are largely within the discretion of the Chair. 116 CONG. REC. 14467, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123]; 121 CONG. REC. 19785-87, 94th Cong. 1st Sess., June 19, 1975 [H.R. 6860]; 123 CONG. REC. 18833, 95th Cong. 1st Sess., June 14, 1977 [H.R. 7553]. Similarly, where time for debate on an amendment is limited, the general rules of recognition applied under the five-minute rule are abrogated, and the Chair may divide the time equally among those Members desiring recognition on the pending amendment. 115 CONG. REC. 25633, 91st Cong. 1st Sess., Sept. 16, 1969 [H.J. Res. 681]. Generally, the Chair attempts to divide the time equally among all those Members who were on their feet seeking recognition (111 CONG. REC. 6113, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362]), whether or not they have previously spoken to the question. 113 CONG. REC. 13824, 90th Cong. 1st Sess., May 24, 1967 [H.R. 7819]. Or the Chair may recognize Members wishing to offer amendments and those opposed to the amendments. 116 CONG. REC. 14465, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123]. But a Member may not obtain five minutes by simply offering a pro forma amendment during the limitation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [H.R. 39]. Offering pro forma amendments under the five-minute rule, see § 25, supra.

§ 31.2 Where all debate on a bill and amendments thereto has been limited, the order in which the Chair recognizes Members desiring to speak is subject to his discretion; and he may use several guidelines in determining the order of recognition—committee status, Members having amendments at the desk, seniority, etc. 112 CONG. REC. 26976, 89th Cong. 2d Sess., Oct. 14, 1966 [S. 3708]. The Chair may in his discretion recognize two Members to equally control the time in support of and in opposition to the amendment. 123 CONG. REC. 20291, 95th Cong. 1st Sess., June 22, 1977 [H.R. 7797]. Thus, the Chair may divide the time between the majority and minority managers of the bill rather than among all Members indicating a desire to speak. 122 CONG. REC. 9088, 94th Cong. 2d Sess., Apr. 1, 1976 [H.R. 12406]. Or the Chair may in his discretion equally allocate the time between two Members on opposing sides of the question, such time to be yielded by them. 123 CONG. REC. 18833, 95th Cong. 1st Sess., June 14, 1977 [H.R. 7553]. Or the Chair may first recognize Members with amendments and those opposed to the amendments. 116 CONG. REC. 14465, 91st Cong. 2d Sess., May 6, 1970. In such instances, where the Chairman has announced his intention to equally divide time under a limitation between a Member in favor of the pending amendment and a Member op-

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posed, he grants priority of recognition to control the time to a member of the committee handling a bill; but where no committee member seeks recognition for that purpose, the Chair may recognize any Member to control the time. 123 CONG. REC. 20291, 20292, 95th Cong. 1st Sess., June 22, 1977 [H.R. 7797].

§ 31.3 Where debate has been limited to a time certain on "the pending amendment and all amendments thereto," the limitation is construed to apply to all permissible forms of amendment—including a substitute for a committee amendment. 116 CONG. REC. 27466, 91st Cong. 2d Sess., Aug. 5, 1970 [H.R. 18546]. (For a discussion of the four forms of amendment, see Ch. 27 § 1.1.)

§ 31.4 When a unanimous-consent request or motion has been made in Committee of the Whole to limit debate, it is the usual practice for Members who desire to speak to rise so that the Chair may list their names and allot the time equally among them. 110 CONG. REC. 15573, 88th Cong. 2d Sess., July 1, 1964 [H.R. 11812]; 114 CONG. REC. 19757, 90th Cong. 2d Sess., July 2, 1968 [H.R. 17134]. In so doing, the Chair may, in his discretion, give priority of recognition to those Members seeking to offer amendments. 118 CONG. REC. 16862, 92d Cong. 2d Sess., May 11, 1972 [H.R. 7130]; 122 CONG. REC. 17381, 94th Cong. 2d Sess., June 10, 1976 [H.R. 13367]. Members who have already debated the question but who are standing may be listed, allotted time, and recognized. 111 CONG. REC. 21941, 89th Cong. 1st Sess., Aug 26, 1965 [H.R. 9567]. A Member not on the list will not be recognized for debate. 108 CONG. REC. 769, 773, 87th Cong. 2d Sess., Jan. 23, 1962 [H.R. 7927]. Members seeking an allocation of time umder a limitation of debate should stand when the limitation is agreed to, and not subsequently. 124 CONG. REC. 23716, 95th Cong. 2d Sess., Aug. 11, 1978 [H.R. 12514]. The Chair may decline to recognize those Members who stand after the allocation of time is announced. 123 CONG. REC. 13413, 13414, 95th Cong. 1st Sess., May 4, 1977 [H.R. 6689].

§ 31.5 When no Members stand to indicate their desire to be recognized under a limitation on five-minute debate when the limitation is agreed to, the Chair allows debate to proceed under the five-minute rule; but the Committee of the Whole may subsequently by unanimous consent allow the time remaining under the limitation to be divided among Members indicating a desire to speak. 124 CONG. REC. 14661, 14670, 95th Cong. 2d Sess., May 19, 1978 [H.R. 39].

§ 31.6 Pending a decision of the Committee of the Whole on a motion to limit debate on an amendment, the Chair may announce that if the motion is agreed to he will attempt to divide the time equally among those Members standing at the time the limitation is imposed and then, if time remains, will recognize other Members seeking recognition. 112 CONG. REC. 17759, 89th Cong. 2d Sess., Aug. 1, 1966 [H.R. 14765]; 113 CONG. REC. 13824, 90th Cong. 1st Sess., May 24, 1967. And where the Committee agrees to terminate debate on an amendment at a certain time, and free time remains after the Members indicating a desire to speak have been recognized, the Chair may recognize Members who have not spoken to the amendment or Members who were recognized for less than five minutes under the limitation of time. 106 CONG. REC. 5911, 5914, 86th Cong. 2d Sess., Mar. 17, 1960. The Chair may either reallocate the remaining time among other Members in his discretion or may proceed again under the five-minute rule. 123 CONG. REC. 27021, 95th Cong. 1st Sess., Aug. 4, 1977 [H.R. 8444].

§ 31.7 If the Committee of the Whole does not agree to a division of time under a motion to limit debate under the five-minute rule, the Chair may recognize each Member who seeks recognition for the full five minutes to which

he is entitled under the rule, until the time has expired. 111 CONG. REC. 17961, 89th Cong. 1st Sess., July 22, 1965 [H.R. 8283]. Moreover, while the Chair normally allocates time for debate among those standing at the time a motion to limit debate is adopted, the Chair may refrain from doing so where several hours of debate remain under the limitation and where it would be premature to deviate from the five-minute rule by dividing all remaining time only among Members who are then present. 120 CONG. REC. 34170, 34171, 93d Cong. 2d Sess., Oct. 7, 1974 [H. Res. 988]. Thus, where debate under the five-minute rule is limited to three hours, the Chair may determine that any allocation of the time at that point is premature, and continue to recognize Members for five minutes. 124 CONG. REC. 1828, 95th Cong., 2d Sess., Feb. 1, 1978 [H.R. 1614]. The Chair also has discretion to announce his intention to recognize each Member offering an amendment for five minutes where it is apparent that all Members who might offer amendments are not in the Chamber at the time the limitation is imposed. 119 CONG. REC. 41711-14, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450].

§ 31.8 Where debate on an amendment has been limited to a time certain under Rule XXIII clause 6, and the time equally divided by the Chair among those Members desiring to speak, the Chair may decline to recognize a Member for a unanimous-consent request to extend the time allocated to him. 117 CONG. REC. 3314, 92d Cong. 1st Sess., Mar. 31, 1971 [H.R. 6531]. A Member who has consumed his allocated time under the limitation may not again be recognized for debate unless he has printed an amendment in the Record, on which he may obtain five minutes of debate (see §34, infra) when he is recognized by the Chair to offer it. 124 CONG. REC. 38155, 95th Cong. 2d Sess., Oct. 14, 1978 [14014].

§ 31.9 When debate on pending amendments in Committee of the Whole has been limited, the five-minute rule is thereby abrogated and Members who have spoken on an amendment may again be recognized under the limitation. 116 CONG. REC. 26032 91st Cong. 2d Sess., July 28, 1970 [H.R. 17654]; 121 CONG. REC. 31074, 94th Cong. 1st Sess., Oct. 1, 1975 [H.R. 9861]; 123 CONG. REC. 27007, 95th Cong. 1st Sess., Aug. 4, 1977 [H.R. 8444]. A Member is not precluded from speaking under the limitation because he has previously debated the amendment under the five-minute rule. 113 CONG. REC. 17762, 90th Cong. 1st Sess., June 28, 1967 [H.R. 10340]; 113 CONG. REC. 32343, 90th Cong. 1st Sess., Nov. 14, 1967 [S. 2388]. (See also 113 CONG. REC. 15903, 90th Cong. 1st Sess., June 15, 1967, holding that where the Committee agrees to limit debate, a Member who has previously spoken may again be recognized in opposition to a pro forma amendment.) Indeed, unless otherwise specified, a Member who has already been recognized for five minutes under the five-minute rule is still entitled to that time if a limitation on debate is agreed to, and the Chair allocates the remaining time under the limitation, when that five minutes has been consumed, among the other Members desiring to speak under the limitation. 124 CONG. REC. 95th Cong. 2d Sess., July 10, 1978 [H.R. 12536]. And where time for debate on a pending title and all amendments thereto has been limited following the offering of an amendment but prior to recognition of its proponent, the Chairman may nevertheless allocate five minutes to the proponent and in his discretion divide the remaining time among other Members. 121 CONG. REC. 32600, 94th Cong. 1st Sess., Oct. 9, 1975 [H.R. 200].

§ 31.10 The general practice is for the Chair to require a Member to use or surrender time for debate under a limitation of time and not to permit using part and reserving part for further debate. 114 CONG. REC. 19914, 90th Cong. 2d Sess., July 3, 1968 [H.R. 17134]. The Chair may in his discretion insist that each

Member utilize or yield back his full time when recognized and may permit a portion to be reserved only by unanimous consent. 122 CONG. REC. 4992, 94th Cong. 2d Sess., Mar. 2, 1976 [H.R. 10760]. The Chair may decline to recognize Members more than one time under the limitation and may refuse to permit Members to divide their allotted time even where several amendments are to be offered. 116 CONG. REC. 14467, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123]; 124 CONG. REC. 11643, 95th Cong. 2d Sess., Apr. 26, 1978 [H.R. 8494]. However, a Member allocated time under the limitation may obtain unanimous consent to reserve that time for debate on an amendment to be offered upon rejection of the pending amendment (124 CONG. REC. 23950, 95th Cong. 2d Sess., Aug. 2, 1978 [H.R. 12514]), or to consume a portion of his time and reserve the unused portion for debate on another amendment to be offered under the limitation. 124 CONG. REC. 15341, 95th Cong. 2d Sess., May 24, 1978 [H.R. 10929]. Moreover, where time for debate is limited to a specific number of minutes rather than a limitation to a time certain on the clock, the Chair may permit Members to reserve time until an amendment to an amendment has been disposed of for the purpose of speaking on the main amendment. 121 CONG. REC. 31602-04, 94th Cong. 1st Sess., Oct. 3, 1975. And while the Chair may insist that listed Members utilize their time when first recognized, he may, in his discretion, permit a recognized Member to reserve his time with the admonition that subsequent recognition cannot be assured if time expires. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 9, 1979 [H.R. 3342]. *Note:* Where time is limited by the clock, a Member attempting to reserve time may be preempted by votes, quorum calls, etc., which come out of the time remaining. Therefore, the Chair, to protect the Member's right to speak, might refuse to permit a reservation of time.

§ 31.11 Members to whom time has been allocated under a limitation on time for debate may, by unanimous consent, yield their time to another Member. 121 CONG. REC. 31074, 94th Cong. 1st Sess., Oct. 1, 1975 [H.R. 9861]. A Member may, by unanimous consent, yield his allotted time to another Member who may, while remaining on his feet, yield back to that Member for debate. 117 CONG. REC. 21884, 92d Cong. 1st Sess., June 24, 1971 [H.R. 9272]. But while a Member may yield such time by unanimous consent, a motion to that effect is not in order. 121 CONG. REC. 20839, 94th Cong. 1st Sess., June 25, 1975 [H.R. 8069].

§ 31.12 Where the Committee of the Whole has, by unanimous consent, limited the time for debate and has specified that it is to be divided and is to be controlled by certain Members, the Members controlling debate may yield time as in general debate. 111 CONG. REC. 16207, 16217, 89th Cong. 1st Sess., July 9, 1965 [H.R. 6400]. And where debate has been limited to 10 minutes by unanimous consent, with the final five minutes reserved to a committee, the Chair divides the first five minutes among those Members indicating a desire to speak, and a Member recognized during that time may yield to other Members for debate. 118 CONG. REC. 18025, 92d Cong. 2d Sess., May 18, 1972 [H.R. 14989].

§ 31.13 Where the Committee of the Whole has, by motion, limited five-minute debate and the remaining time has been allocated among those Members desiring to speak, the Chair may decline to entertain a unanimous-consent request to close debate prior to calling each name on the list of Members to be recognized under the time limitation. 117 CONG. REC. 39091, 92d Cong. 1st Sess., Nov. 3, 1971 [H.R. 7248]. If certain Members do not seek recognition when their names are called, the Chair is not required to reapportion the time among Members remaining on the list but may continue to recognize Members to speak for the period of time originally computed and an-

nounced when the limitation was agreed upon. 115 CONG. REC. 31218, 31221, 91st Cong. 1st Sess., Oct. 23, 1969 [H.R. 13827]. But the Chair may put the question on the amendments prior to the designated hour if those Members listed do not consume their allotted time and if there are no further requests to speak. 115 CONG. REC. 25809, 91st Cong. 1st Sess., July 27, 1970; 116 CONG. REC. 38992, 91st Cong. 2d Sess., Nov. 25, 1970.

§ 31.14 Where the Committee of the Whole limits debate on a bill and all amendments thereto to a time certain, the Chairman may allocate the remaining time among those Members indicating a desire to speak to the exclusion of those Members whose amendments have been printed in the *Congressional Record.* 120 CONG. REC. 39165, 93d Cong. 2d Sess., Dec. 11, 1974 [H.R. 17234]. Recognition of listed Members whose amendments have been printed in the Record may be deferred, since they are guaranteed five minutes notwithstanding the limitation. 121 CONG. REC. 16901, 94th Cong. 1st Sess., June 4, 1975 [H.R. 6219]. Since amendments printed in the Record are debatable notwithstanding the expiration of time under the limitation (§ 34, infra), the Chair may extend priority of recognition to those Members whose amendments have not been printed in the Record. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930]. The Chair may extend recognition under the limitation to Members seeking to offer amendments not printed in the Record even before members of the reporting committee. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 27, 1979 [H.R. 4389]. In one instance where the Committee of the Whole had limited debate with separate allocations to titles of an amendment in the nature of a substitute which was open to amendment at any point, the Chairman indicated that he would give preference in recognition to all Members who had amendments to the title being debated, and that Members who had printed amendments in the Record should offer them at the conclusion of debate on that title. 120 CONG. REC. 25009, 93d Cong. 2d Sess., July 24, 1974 [H.R. 11500].

§ 31.15 Where the Committee had limited debate on a motion to strike a portion of pending text, the Chair requested a Member to withhold offering a perfecting amendment to the text until the expiration of the time limitation since the limitation did not apply to perfecting amendments which could be offered, debated, and voted upon prior to the vote on the motion to strike and since debate on the perfecting amendment, if offered during the limitation, would reduce time remaining under the limitation. 123 CONG. REC. 16176, 95th Cong. 1st Sess., May 24, 1977 [H.R. 6884].

§ 31.16 Unless the limitation of time for debate requires otherwise, the Chair will dispose of the committee amendments and amendments thereto before dividing the remaining time for debate. 114 CONG. REC. 22096, 90th Cong. 2d Sess., July 18, 1968 [H.R. 15263].

§ 32. Accounting of Time Under Limitation; Charging Time

§ 32.1 *Note:* A limitation on debate under the five-minute rule may take the form of a restriction on *debate time* (i.e., "for 60 minutes") or as a limitation on debate to a *time certain* (i.e., "until 5 p.m."). The form of the limitation is particularly significant in determining how the time is to be accounted for under the limitation. When *debate time* on a proposition is limited to a fixed period, such as 60 minutes, the time consumed for purposes other than debate is not counted or charged against the allowable time for debate. 112 CONG. REC. 11608, 89th Cong. 2d Sess., May 26, 1966 [H.R. 13712]; 124 CONG. REC. p. ....., 95th Cong. 2d Sess., Feb. 1, 1978 [H.R. 1614]. On the other hand, where the time for debate has been fixed to a *time certain,* such as 5 p.m., the

time consumed by matters other than debate is charged against the time remaining, thus reducing the time for debate allowable to Members. 108 CONG. REC. 769, 773, 87th Cong. 2d Sess., Jan. 23, 1962 [H.R. 7927]. A request or motion to close debate at a *time certain* should specify that the debate cease at a certain time, and not that the Committee of the Whole vote at a certain time, since the Chair cannot control time consumed by quorum calls and votes on other intervening motions. 123 CONG. REC. 21383, 21384, 95th Cong. 1st Sess., June 29, 1977 [H.R. 7932].

§ 32.2 When *debate time* on a proposition is limited to a fixed period, i.e., "to 30 minutes," the time consumed for purposes other than debate is not counted as part of that period, and time used by a quorum call during that time is not charged against the period allowed for debate. 112 CONG. REC. 11608, 89th Cong. 2d Sess., May 26, 1966 [H.R. 13712]; 112 CONG. REC. 18207, 89th Cong. 2d Sess., Aug. 4, 1966 [H.R. 14765]; 117 CONG. REC. 40060, 92d Cong. 1st Sess., Nov. 9, 1971 [H.R. 10729]. Likewise, under such a limitation, the time consumed by the reading of amendments is not taken from that remaining for debate. 115 CONG. REC. 28459, 91st Cong. 1st Sess., Oct. 3, 1969. Nor is time consumed by voting counted against the limitation. 110 CONG. REC. 2705, 88th Cong. 2d Sess., Feb. 10, 1964 [H.R. 7152]; 122 CONG. REC. 33082, 94th Cong. 2d Sess., Sept. 28, 1976 [H.R. 15]. And where the Committee of the Whole rises prior to completion of debate, time for debate remains under the limitation when the Committee resumes consideration at a subsequent time. 120 CONG. REC. 25009, 93d Cong. 2d Sess., July 24, 1974 [H.R. 11500].

§ 32.3 Where debate has been limited to a *time certain,* the time for other procedural matters, such as parliamentary inquiries, reading of amendments, points of order, etc., is taken from time remaining, thus reducing the time for debate that would otherwise be available to the Members. 108 CONG. REC. 769, 773, 87th Cong. 2d Sess., Jan. 23, 1962 [H.R. 7927]. For example, time consumed by voting comes out of a limitation of time for debate where that debate has been limited to a *time certain.* 117 CONG. REC. 43406, 92d Cong. 1st Sess., Nov. 30, 1971 [H.R. 11060]; 121 CONG. REC. 41389, 94th Cong. 1st Sess., Dec. 17, 1975 [H.R. 10979]. Where part of the fixed time is consumed by voting, it may not be possible for the Chair to reach each Member to whom time has been allocated before the time expires. 110 CONG. REC. 18583, 18608, 88th Cong. 2d Sess., Aug. 7, 1964 [H.R. 11377]. In such cases, no point of order lies against the inability of the Chair to recognize each Member on the list. 123 CONG. REC. 20918, 95th Cong. 1st Sess., June 27, 1977 [H.R. 6666].

§ 32.4 Where debate is limited to a *time certain* on a measure, time consumed on a related procedural matter (such as a point of order) comes out of the total allocation of remaining time and is proportionally deducted from those Members who have not yet spoken under the allocation. 124 CONG. REC. 21704, 95th Cong. 2d Sess., July 19, 1978 [H.R. 1609]; 124 CONG. REC. 11642, 95th Cong. 2d Sess., Apr. 26, 1978 [H.R. 8494]. The Chair then reallocates the balance of the time among the remaining Members. 124 CONG. REC. 11649, 95th Cong. 2d Sess., Apr. 26, 1978 [H.R. 8494]. Such a limitation terminates all debate at that time specified notwithstanding reallocations of allotted time which remain unused when debate expires. 122 CONG. REC. 13427, 94th Cong. 2d Sess., May 11, 1976 [H.R. 12835].

§ 32.5 A measure has been limited to a *time certain* (i.e., 5 p.m. that day), and the Committee of the Whole rises before that time without having completed action on the pending measure, no time is considered as remaining when the Committee, on a later day, again resumes consideration of the measure. 116 CONG. REC.

14452, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123]. See also 107 CONG. REC. 7725, 7728, 87th Cong. 1st Sess., May 10, 1961. The limitation of debate carries over to prevent debate on the pending question on the subsequent day, and the Committee may extend debate on the subsequent day only by unanimous consent. 123 CONG. REC. 34714, 95th Cong. 1st Sess., Oct. 20, 1977 [H.R. 9375].

§ 32.6 Just as time consumed in disposing of unanimous-consent requests or motions to limit debate on an amendment in Committee of the Whole is charged to the Member who has been recognized under the five-minute rule (118 CONG. REC. 19476, 92d Cong. 2d Sess., June 1, 1972 [H.R. 13918]), so time consumed by parliamentary inquiries propounded by a Member recognized under a limitation of time comes out of the time allotted to that Member. 117 CONG. REC. 39078, 92d Cong. 1st Sess., Nov. 3, 1971 [H.R. 7248].

§ 32.7 Time for debate on a motion to strike the enacting clause of a bill is not taken out of the time remaining for debate under a limitation previously agreed upon, where the limitation is not to a time certain or is not on the bill and all amendments thereto. 106 CONG. REC. 14055, 14058, 86th Cong. 2d Sess., June 23, 1960 [H.R. 12261]. But where the time for debate is limited to a *time certain,* the 10 minutes permitted for debate on such a motion comes out of the time remaining under the limitation and reduces the time which may be allocated to Members wishing to speak. 116 CONG. REC. 14452, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123]. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 18, 1979 [H.R. 4440].

§ 32.8 Where after limiting debate under the five-minute rule the Committee of the Whole is about to rise on motion, the Chair may, in his discretion, defer his allocation of that time until the Committee resumes consideration of the bill on a subsequent day. 124 CONG. REC. 28800, 95th Cong. 2d Sess., Sept. 11, 1978 [H.R. 11280]. In one instance, the Chair advised that upon again resolving into the Committee Members would be recognized within the time limit under the five-minute rule. 112 CONG. REC. 17856, 89th Cong. 2d Sess., Aug. 2, 1966. In another the Chair proceeded to allocate the time under the limitation among those Members seeking recognition when the Committee of the Whole reconvened on the pending bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 24, 1979 [H.R. 3000].

§ 33. Amendments Offered After Expiration of Time; Motions to Strike Enacting Clause

§ 33.1 Where the Committee of the Whole has agreed to close debate on a measure and all amendments thereto, and all time for debate has expired, the Chair will still recognize Members to offer amendments, but they are voted on without debate (unless debate is protected by printing of the amendments in the Record). 110 CONG. REC. 2706, 2719, 88th Cong. 2d Sess., Feb. 10, 1964 [H.R. 7152]; 111 CONG. REC. 6114, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362]; 111 CONG. REC. 26305, 89th Cong. 1st Sess., Oct 7, 1965 [S. 2084]. Thus, the expiration of time for debate on a pending amendment and all amendments thereto does not preclude the offering of a substitute and amendments to the substitute, which are voted upon, after being read, without debate. 121 CONG. REC. 11507, 11508, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096]. Debate time having expired, no further debate is in order, and a Member may not gain time for debate by offering a pro forma amendment "to strike the last word." 124 CONG. REC. 23954, 95th Cong. 2d Sess., Aug. 2, 1978 [H.R. 12514].

§ 33.2 Upon the expiration of time for debate on a bill and all amendments thereto, only

those amendments which have been printed in the *Congressional Record* pursuant to Rule XXIII clause 6 may be debated, while other amendments may be offered and voted upon without debate. 120 CONG. REC. 39170, 93d Cong. 2d Sess., Dec. 11, 1974 [H.R. 17234]; 123 CONG. REC. 17700, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10].

§ 33.3 Despite a limitation of time for debate on a bill and all amendments thereto to a time certain, and the subsequent allocation of less than five minutes' time to each Member, a full 10-minutes' debate, five for and five against, may still be demanded on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken. 116 CONG. REC. 14445, 14451, 91st Cong. 2d Sess., May 6, 1970 [H.R. 17123]. Such a motion is not debatable, however, if *all* time for debate on the bill under the limitation has expired. 105 CONG. REC. 10556, 10560, 86th Cong. 1st Sess., June 11, 1959 [H.R. 7246]; 122 CONG. REC. 10249, 94th Cong. 2d Sess., Apr. 9, 1976 [H.R. 12438]. If there remains less than 10 minutes of debate time under the limitation, a Member offering such a motion is entitled to one-half of the time remaining and a Member in opposition to the motion is recognized for the other half. 121 CONG. REC. 19787, 94th Cong. 1st Sess., June 19, 1975 [H.R. 6860]. The 10 minutes used for debate on the motion is not taken from the time remaining for debate under a limitation previously agreed upon where debate is limited only on a pending amendment and not on the entire bill and all amendments thereto. See 111 CONG. REC. 16227, 89th Cong. 1st Sess., July 9, 1965 [H.R. 6400].

§ 34. Amendments Printed in the Record

§ 34.1 A Member who has inserted the text of his amendment in the *Congressional Record* at least one day prior to consideration may debate that amendment for five minutes notwithstanding any limitation of time imposed by Committee of the Whole. (Clause 6 Rule XXIII.) 119 CONG. REC. 41732, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450]; 117 CONG. REC. 8630, 92d Cong. 1st Sess., Mar. 30, 1971 [H.R. 6531]. The five minutes of debate time provided for by Rule XXIII clause 6 may be claimed only by that Member who offers an amendment which he has had printed in the *Congressional Record;* that right does not inure to another Member even though he offers the same amendment. 122 CONG. REC. 16044, 94th Cong. 2d Sess., June 1, 1976 [H.R. 12169]. Furthermore, the rule does not permit the offering of an amendment which would not otherwise be in order. 120 CONG. REC. 24459, 24460, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500]; 121 CONG. REC. 11544, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096].

§ 34.2 Where five-minute debate on a measure has been closed in Committee of the Whole, a Member whose amendment has been printed in the *Congressional Record* may nevertheless, under clause 6 Rule XXIII, debate that amendment for five minutes, and another Member may then be recognized for five minutes in opposition. 118 CONG. REC. 10771-74, 92d Cong. 2d Sess., Mar. 29, 1972 [H.R. 11896]; 119 CONG. REC. 27712, 27715, 93d Cong. 1st Sess., Aug. 2, 1973 [H.R. 9130]; 120 CONG. REC. 20616, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472].

§ 34.3 To be guaranteed five minutes of debate on an amendment printed in the *Congressional Record* under Rule XXIII clause 6, notwithstanding a limitation of debate, the published amendment must indicate the portion of the bill or amendment (or both) to which it will be offered; debate will not be permitted if the amendment is offered to a proposition not identified in the Record. 122 CONG. REC. 33082, 94th Cong. 2d Sess., Sept. 28, 1976 [H.R. 15]. In addition, the amendment must be offered in the precise form in which it

was printed in the Record. An amendment printed in the Record which is to be offered to original text is not protected by the rule when offered in different form as an amendment to a pending substitute. 120 CONG. REC. 24459, 24460, 93d Cong. 2d Sess., July 22, 1974 [H.R. 11500]; 120 CONG. REC. 25230, 25232, 25253, 93d Cong. 2d Sess., July 25, 1974 [H.R. 11500]. However, the guarantee of five minutes of debate on amendments printed in the Record will inure to an amendment offered as a substitute for another amendment, rather than as an original amendment, where offered in the precise form as printed in the Record. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 26, 1979 [H.R. 3930].

§ 34.4 Although a limitation of time for debate abrogates the five-minute rule and the allocation of the time remaining to Members seeking recognition is within the discretion of the Chair, Members who have caused amendments to be printed in the *Congressional Record* under Rule XXIII clause 6 receive the full five minutes. 121 CONG. REC. 20957, 94th Cong. 1st Sess., June 26, 1975. Such debate time may be claimed notwithstanding a limitation of debate to a time certain and the allocation of the remaining time by the Chair. 119 CONG. REC. 13253, 13254, 93d Cong. 1st Sess., Apr. 19, 1973 [S. 502]. And where the amendment is offered after the limitation has expired, a Member is still entitled to his five minutes (125 CONG. REC. p. ..... 96th Cong. 1st Sess., Oct. 24, 1979 [H.R. 3000]); but if offered and debated during the allocated time the Chair must reduce and reallocate the remaining time among the Members previously listed. 121 CONG. REC. 20957, 20965, 94th Cong. 1st Sess., June 26, 1975 [H.R. 8121]. Debate time under the rule extends to those amendments printed in the Record at least one day prior to their consideration, including those printed after debate time has expired under the limitation but before the Committee of the Whole resumes consideration of that portion of the bill to which the limitation applies. 124 CONG. REC. 7044, 95th Cong. 2d Sess., Mar. 15, 1978 [H.R. 50].

§ 34.5 The Chairman of the Committee of the Whole gives priority in recognition, in opposition to an amendment printed in the *Congressional Record* and offered after debate is limited, to senior members of the committee reporting the bill regardless of party affiliation. 123 CONG. REC. 17700, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10].

§ 34.6 Pursuant to Rule XXIII clause 6, a Member may be recognized for five minutes in opposition to an amendment which had been printed in the *Congressional Record* and debated by its proponent for five minutes, notwithstanding a prior allocation of time to that Member on the pending proposition and all amendments thereto. 120 CONG. REC. 25221, 25222, 93d Cong. 2d Sess., July 25, 1974 [H.R. 11500].

§ 34.7 Where consideration en bloc is granted, by unanimous consent, of several amendments which had been printed in the *Congressional Record,* the proponent is entitled only to five minutes of debate on the amendments. 120 CONG. REC. 25224, 93d Cong. 2d Sess., July 25, 1974 [H.R. 11500].

§ 34.8 Although only two five-minute speeches are permitted on an amendment printed in the *Congressional Record* after a limitation on debate under the five-minute rule has expired, the Chair may in his discretion entertain a unanimous-consent request to extend the time for debate on the amendment, or enter his own objection by refusing to entertain such a request. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 27, 1979 [H.R. 4394].

§ 34.9 In one instance in the 96th Congress, a Member who had printed a "pro forma" amendment (to strike the last three words) in the Record was entitled to five minutes on the amendment despite the expiration of a limita-

tion on debate. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 24, 1979 [H.R. 3000].

H. USE OF EXHIBITS OR PAPERS IN DEBATE

§ 35. In General

§ 35.1 In rare instances, a Member has been permitted to use an exhibit while engaged in debate in the Committee of the Whole. 112 CONG. REC. 12572, 12574, 89th Cong. 2d Sess., June 8, 1966. *Note:* The use of such exhibits (in this case, oversize dice) is permitted by the sufferance of the Committee. Had objection been raised the Chair would have put the question to the Committee: "Shall the Gentleman be permitted to use an exhibit?" No debate on the motion would have been in order. Also, although the Member having the floor in Committee of the Whole may display charts or exhibits by permission of the Committee if no objection is made, such displays are removed if another Member having the floor does not desire to utilize them. 123 CONG. REC. 29975, 95th Cong. 1st Sess., Sept. 20, 1977 [H.R. 6796].

§ 35.2 By unanimous consent, the House permitted the Committee on Science and Astronautics to use models and exhibits in the Committee of the Whole during debate on a bill. 109 CONG. REC. 13853, 88th Cong. 1st Sess., Aug. 1, 1963.

§ 35.3 The Chairman of the Committee on House Administration, during debate on the resolution amending the rules to provide for voting by electronic device, demonstrated to the House the functioning of the electronic equipment which had been installed in the Chamber under the direction of his committee. 118 CONG. REC. 36006, 92d Cong. 2d Sess., Oct. 13, 1972 [H. Res. 1123].

§ 35.4 Under Rule XXX, where a Member seeks to read a paper, upon which the House will not vote, and a Member objects to that reading, the permission of the House must be obtained. The Chair puts the question to the House for a determination without debate. 120 CONG. REC. 41425, 93d Cong. 2d Sess., Dec. 19, 1974; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 1, 1979.

§ 35.5 The consent of the House pursuant to Rule XXX for a Member to read a paper in debate only permits the Member seeking such permission to read as much of the paper as possible in the time yielded or allotted to that Member, and does not necessarily grant permission to read or insert the entire document. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 1, 1979.

§ 35.6 Where a Member seeks recognition to address the House for one minute and to utilize an exhibit or object for purposes of demonstration, the Speaker may make inquiry as to its purpose, and then deny the Member recognition if he determines that the object might subject the House to ridicule. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Aug. 27, 1980.

§ 35.7 The Speaker denied a request that a Member be permitted to use a video recorder on the floor of the House during a special order, since to permit a visual-sound display of comments by nonmembers would be contrary to precedents limiting the privilege of debate to Members. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 11, 1980.

I. SECRET SESSIONS [NEW]

§ 36. In General

§ 36.1 Under Rule XXIX, providing for secret sessions of the House, a motion to re-

solve into secret session may be made only in the House and not in the Committee of the Whole. 124 CONG. REC. 16376, 95th Cong. 2d Sess., June 6, 1978; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979. The House, and not the Committee, determines whether to conduct a secret session under Rule XXIX. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979. The Member making the motion must qualify by asserting that he himself has a secret communication to make to the House. 124 CONG. REC. 16376, 95th Cong. 2d Sess., June 6, 1978. The motion is not debatable, although the Chair may explain the operation of the rule and respond to parliamentary inquiries after the motion has been agreed to and before the secret session commences. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979.

§ 36.2 Where the House has resolved itself into secret session pursuant to a motion under Rule XXIX, on a finding by the Speaker that the Member making the motion has confidential communications to make as required by the rule, it is not in order to make a point of order in the secret session that the material in question must be produced to the Members in advance to determine whether secret or confidential communications are involved. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979.

§ 36.3 In a secret session of the House, a motion may be made to make the proceedings of the session public; such motion is debatable within narrow limits for one hour. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979. Where the House has concluded a secret session and has not voted to release the transcripts of that session to the public, the injunction of secrecy remains and the Speaker may informally refer the transcripts to appropriate committees for their evaluation and report to the House as to their ultimate disposition. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979.

§ 36.4 In the 96th Congress, the House resolved itself into secret session pursuant to Rule XXIX for the first time since 1830. On June 20, 1979, upon completion of general debate on the Panama Canal Act of 1979 in Committee of the Whole, a Member offered a pro forma amendment to announce that he would at the conclusion of his remarks move that the Committee rise and would then offer in the House a motion, pursuant to Rule XXIX, that the House resolve itself into secret session to discuss confidential communications related to the subject under discussion. After the Member offering the motion had insured the Speaker (Jim Wright, Speaker pro tempore) that he had confidential communications to make to the House as required by that rule, the House adopted the motion by voice vote. The Speaker announced before the secret session commenced, that the galleries would be cleared, that the Chamber would be cleared of all persons except Members and those officers and employees specified by the Speaker whose attendance on the floor was essential to the functioning of the secret session, and that all proceedings in the secret session must be kept secret until otherwise ordered by the House. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979 [H.R. 111].

Before declaring a recess in order to clear the Chamber and galleries, the Speaker stated in response to parliamentary inquiries (1) that the proceedings in secret session would not be recorded by the television system; (2) that after the presentation of the material considered confidential in secret session, the House could vote in secret session to remove the injunction of secrecy from the proceedings; (3) that the material to be presented in the secret session was not required by Rule XXIX or the precedents relating thereto to be relevant to any particular legislation; (4) that the Speaker had provided guidelines as to which employees were to be considered essential and that during the session only those employees so designated could enter the Chamber; (5) that

Members could come and go at will during the session; (6) that Members would be prohibited from divulging information presented in the secret session without the consent of the House; (7) that a record of attendance of Members would not be kept, except through a call of the House; (8) that members of committees which might be meeting would be sufficiently notified of the secret session; (9) that admitted House employees (but not Members) must sign an oath of secrecy, violation of which was punishable by the House; (10) that no rule of the House required clearance of House Members or employees under procedures applied by the executive branch for access to classified information, but that Members and employees of the House were subject to standards of conduct and disciplinary procedures under House rules. After a recess, the House resolved itself into secret session. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979. The proceedings of this session were not printed in the *Congressional Record* for the day in question, the House having refused in secret session to remove the injunction of secrecy, but a transcript of the proceedings of this session with certain deletions was subsequently published in the Record by unanimous consent. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979. That transcript discloses that at the convening of this session, the Speaker directed all officers and employees designated by him as essential to the proceedings to come to the pages' desk and sign an oath of secrecy. The Speaker then recognized the Member who had offered the motion for a secret session for one hour of debate, and advised that Member that the normal rules of the House would apply during such debate and that no motions would be in order unless he yielded for such purpose. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979.

During the secret session, the Member recognized to control the debate offered a motion to make the proceedings of the session public. This motion was separately debated (and subsequently withdrawn). The Speaker took the floor pending the motion to speak in opposition to it on the grounds that the transcript should be reviewed by the Select Committee on Intelligence to determine whether the transcript could be made public with appropriate deletions, and that the House could determine to reveal the transcript if necessary in another secret session based on such review and on review by other Members who would have access thereto. At the conclusion of debate in the secret session, the Member who had controlled the debate therein offered a motion that the secret session be dissolved, which was agreed to. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979.

At the conclusion of the secret session, the Speaker reminded the Members that the House had not voted to remove the injunction of secrecy from the proceedings and that Members were bound not to disclose such proceedings thereof until released by order of the House. The Speaker stated that he would informally refer the transcript of the proceedings to the permanent Select Committee on Intelligence and to the Committee on Merchant Marine and Fisheries (the committee with primary jurisdiction over the bill pending when the secret session commenced), to report back to the Speaker, and that the material would have the status of executive session material while in the possession of those committees. The Speaker added that after those committees had reported, the matter could go before the Committee on Rules and the House could resolve itself into another secret session before making the transcript a public record (after deleting classified portions and allowing Members who participated in the proceedings to revise and extend their remarks). 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 17, 1979.

§ 36.5 Another secret session of the House was conducted on Feb. 25, 1980. The transcript of the proceedings of this session was not made public. 126 CONG. REC. p. ....., 96th

Cong. 2d Sess., Feb. 25, 1980. The information which formed the basis of this secret session was classified material in possession of the House Select Committee on Intelligence and the Committee on Foreign Affairs.

The Chair overrruled a point of order against the motion to resolve into secret session on the ground that the material was in the possession of the committees and not of the Member making the motion, and on the ground that when a Member asserts that he is properly in possession of confidential material which he believes should be shared with the House in debate, he qualifies to make the motion under Rule XXIX.

Following the secret session, the Chair indicated that the question whether the mere characterization as to the type of testimony and information presented in the secret session, as opposed to the substance of such material, could be divulged or released without violating the injunction of secrecy, was a judgment which each Member of the House, and not the Chair, must make. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 25, 1980.

Chapter 30

Voting

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A. INTRODUCTORY

§ 1. In General; Use of Electronic Voting Equipment

§ 1.1 The methods and procedures by which Members vote—including voting viva voce, by division, by tellers, and by a recorded vote or the yeas and nays—are prescribed by the rules of the House. See particularly Rule I and Rule XV, *House Rules and Manual* (96th Cong.). The House may alter these voting procedures through the adoption of a resolution reported from the Committee on Rules. 121 CONG. REC. 28903, 94th Cong. 1st Sess., Sept. 17, 1975. The use of the electronic voting system is customarily permitted prior to the adoption of the rules at the inception of a Congress.

§ 1.2 In the 92d Congress, the House amended Rule XV to provide procedures for the recording of votes in the House and in Committee of the Whole by electronic device at the discretion of the Chair; provision was also made for a "back-up" nonelectronic procedure for recorded votes by which clerk tellers may be appointed under a single-step demand for a "recorded vote." 118 CONG. REC. 36005, 92d Cong. 2d Sess., Oct. 13, 1972 [H. Res. 1123]. *Note:* Clause 1 of Rule XV authorizes the Chair to direct the alphabetical call of the roll on "every roll call" unless the Chair, in his discretion, utilizes the electronic device, but clause 5 of Rule XV distinguishes between "roll calls" and "quorum calls", and clause 2(b) permits "calls of the House" to be told by clerks where the electronic device is not utilized.

§ 1.3 The Speaker has on numerous occasions announced procedures to be followed in casting votes or responding to quorum calls by electronic device. The Speaker's announcements have included explanations as to the use of voter identification cards and the verification of votes under the electronic system. 119 CONG. REC. 27, 93d Cong. 1st Sess., Jan. 3, 1973; 119 CONG. REC. 1055-57, 93d Cong. 1st Sess., Jan. 15, 1973; 120 CONG. REC. 103, 93d Cong. 2d Sess., Jan. 21, 1974.

§ 1.4 Where the electronic voting system malfunctions or becomes inoperative, the Chair may direct that all recorded votes and quorum calls be conducted pursuant to the standby procedures prescribed in Rules I and XV. 119 CONG. REC. 15860, 15861, 93d Cong. 1st Sess., May 16, 1973 [H.R. 5777]; 119 CONG. REC. 24171, 93d Cong. 1st Sess., July 17, 1973; 119 CONG. REC. 24653, 93d Cong. 1st Sess., July 18, 1973. Thus the Speaker may direct the Clerk to call the roll alphabetically where the electronic voting device is not in operation. 119 CONG. REC. 15860, 15861, 93d Cong. 1st Sess., May 16, 1973 [H.R. 5777]. If the electronic system becomes inoperative during a record vote, the Chair may direct that the vote be taken de novo by clerks. 119 CONG. REC. 23971, 23972, 93d Cong. 1st Sess., July 16, 1973 [H.R. 8860]. Or he may announce that Members who had been recorded prior to the malfunction of the electronic device will be included in the new tally of those voting. 119 CONG. REC. 43285, 43288, 43292, 93d Cong. 1st Sess., Dec. 21, 1973 [H. Res. 761]. When the system again becomes operative, its use resumes at the Chair's discretion. 119 CONG. REC. 24919, 93d Cong., 1st Sess., July 19, 1973.

§ 1.5 Recorded votes may be taken by electronic device although the display panels showing the vote totals and the Members' names and votes are inoperative, since Members can verify votes either at the monitors or by reinserting their cards in the voting stations. 123 CONG. REC. 17484, 95th Cong. 1st Sess., June 6, 1977; 124 CONG. REC. 18260, 95th Cong. 2d Sess., June 21, 1978; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 18, 1979.

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§ 1.6 While the Speaker ordinarily exercises his discretion under Rule XV clause 5 and directs that a recorded vote be taken by rollcall upon operational failure of the electronic voting system, a malfunction of the monitor at the majority or minority table will not prevent utilization of the electronic system where an alternate use of another monitor can be made. 120 CONG. REC. 27219, 93d Cong. 2d Sess., Aug. 7, 1974.

§ 1.7 A Member whose vote had been recorded in his absence either through malfunction of the electronic voting system or by unauthorized use of his electronic voting card requested the Committee on Standards of Official Conduct to investigate the matter and stated his intention to step aside as a member of that committee during such investigation. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 31, 1979. On the next day, the Chairman of the Committee on House Administration announced, with respect to the recording of the absent Member on rollcall votes on a previous day, that his committee would undertake a technical examination of the rollcall votes in question and any possible malfunctions of the electronic voting system. He requested Members noting any problems with the voting system on the day in question to advise the committee, and suggested that his committee would determine whether to forward its findings to the Committee on Standards of Official Conduct. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 1, 1979. For the report of the Committee on Standards of Official Conduct, see H. Rept. 96-991, May 15, 1980.

§ 1.8 In 1974, improvements were made by the Committee on House Administration in the electronic voting system which would permit retrieval of voting information by state delegation as well as alphabetical, party, and vote preference analysis. 120 CONG. REC. 6021, 93d Cong. 2d Sess., Mar. 11, 1974.

§ 1.9 Where a vote in the House by electronic device results in a tie, the Speaker announces the number of votes for and against the question and then announces his decisive vote from the chair immediately prior to announcing the result. 120 CONG. REC. 16264, 16265, 93d Cong. 2d Sess., May 23, 1974. For other tie vote precedents, see § 11, infra.

§ 1.10 *Note:* In the 96th Congress, the House amended Rule I to permit the Speaker to "cluster" certain votes, e.g., on the passage of bills or resolutions or on agreeing to conference reports. The new rule permitted the Speaker in his discretion to postpone further proceedings on such votes to a designated time on the same legislative day or within two legislative days. See Rule I clause 5(b) as amended, and H. Res. 5, Jan. 15, 1979 (96th Cong.). The House also amended Rule XI clause 4(e) to permit the Speaker, in his discretion, to "cluster" record votes on designated resolutions reported from the Committee on Rules by putting the question thereon at the end of the debate on the last such resolution. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 51].

§ 2. Requests to Alter Electronically Recorded Votes

§ 2.1 Requests to correct the *Congressional Record* and the Journal on votes taken by electronic device are not entertained, it being the responsibility of each Member to utilize the safeguards of electronic system and to verify the proper recording of his vote. 119 CONG. REC. 3558, 93d Cong. 1st Sess., Feb. 6, 1973; 120 CONG. REC. 37426, 93d Cong. 2d Sess., Dec. 3, 1974. Recognition for such a request may be denied despite assurances by that Member that he had verified his vote by reinserting his card. 119 CONG. REC. 13081, 93d Cong. 1st Sess., Apr. 18, 1973. The Speaker may also refuse to entertain a unanimous-consent request to correct the Record where a

vote was changed by submission of a ballot card to the tally clerk. But the incorrect transcription by the official reporters of debates of a vote change announced in the well may be corrected in the Record by unanimous consent. 121 CONG. REC. 30059, 94th Cong. 1st Sess., Sept. 24, 1975.

§ 2.2 The Speaker has declined to entertain a unanimous-consent request to correct a vote taken by electronic device although the Member was recorded as voting on a day when he was on leave from the House, no explanation having been offered for the discrepancy. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 31, 1979. But in a unique case, in 1978, the permanent *Congressional Record* and Journal were corrected by unanimous consent to record as not voting a Member who had been incorrectly recorded as voting "aye" on eight rollcall votes taken by electronic device on the preceding day, where it was documented that he had been absent from Washington, D.C., attending functions in his home district. For a report of the Committee on Standards of Official Conduct on voting anomalies, see H. Rept. No. 96-991, May 15, 1980.

§ 2.3 Following the announcement of the result of a call of the House conducted by electronic device pursuant to clause 5 Rule XV, the Speaker declined to entertain requests by Members to record their presence. 119 CONG. REC. 36861-63, 93d Cong. 1st Sess., Nov. 13, 1973 [H. Res. 695].

§ 2.4 Pursuant to a policy in effect until Mar. 22, 1976, Members could not change their votes at the voting stations on the floor but were required to announce the change from the well and concurrently submit to the tally clerk a vote-change card. 121 CONG. REC. 28903, 94th Cong. 1st Sess., Sept. 17, 1975. On Mar. 22, 1976, the Speaker directed a modification of that system to permit Members to change their votes electronically during the first 10 minutes of the 15-minute voting period, but requiring changes during the last five minutes to be announced from the well by submission of a voting card. 122 CONG. REC. 7394, 94th Cong. 2d Sess. Pursuant to this directive, Members who have been recorded during the last five minutes of a 15-minute vote may not change their votes at the voting stations but may do so after the Chair asks for changes and the voting stations have been finally closed. 124 CONG. REC. 6840, 95th Cong. 2d Sess., Mar. 14, 1978. On Jan. 4, 1977, the Speaker announced a further modification of the electronic voting system to permit Members to change votes by reinsertion of voting cards at any time during five-minute votes until voting stations are closed by the Chair. 123 CONG. REC. 73, 95th Cong. 1st Sess.

§ 2.5 Following the expiration of the 15-minute minimum time for voting by electronic device and the closing of electronic voting stations, but prior to the Speaker's announcement of the result, any Member may either change his vote or cast an initial vote from the well by use of a ballot card. 121 CONG. REC. 28950, 28951, 94th Cong. 1st Sess., Sept. 23, 1975.

§ 2.6 The Speaker announced that Members may verify their votes by inserting their voting cards in the voting stations on the floor, and that any vote changes made following the closing of the voting stations and reported by the official reporters would be checked against the vote-change cards submitted to the tally clerk by those Members changing their votes, prior to insertion in the *Congressional Record.* 121 CONG. REC. 30059, 94th Cong. 1st Sess., Sept. 24, 1975.

§ 3. Putting the Question

§ 3.1 The form for putting the question is provided for in Rule I clause 5 as follows: "As many as are in favor . . . say 'Aye' "; and after the affirmative voice is expressed, "As many as are opposed, say 'No' ". A question may be put to a vote only by the Chair; it is not in

order for a Member having the floor in debate to ask for a show of support for an amendment. 123 CONG. REC. 12548, 95th Cong. 1st Sess., Apr. 27, 1977. The motion as stated by the Chair in putting the question and not as stated by the Member in offering the motion, is the proposition voted upon. 109 CONG. REC. 23305, 88th Cong. 1st Sess., Dec. 4, 1963 [H.R. 6196].

§ 3.2 When the Committee of the Whole has perfected the body and then the preamble of a concurrent resolution and the Committee rises, the Speaker puts the question on separate votes on amendments to the body, and then on agreeing to the resolution (including the preamble). 108 CONG. REC. 22637, 87th Cong. 2d Sess., Oct. 5, 1962. Amendments to the preamble of a simple or concurrent House resolution are considered in the House following adoption of the resolution. 116 CONG. REC. 18656-71, 91st, Cong. 2d Sess., June 8, 1970; 119 CONG. REC. 39337, 93d Cong. 1st Sess., Dec. 4, 1973. Where a joint resolution is reported to the House from Committee of the Whole with amendments to the body and preamble, the Speaker puts the question (1) on the amendment to the body; (2) on engrossment of the resolution; (3) on the amendment to the preamble; (4) on third reading of the resolution; and (5) on passage of the resolution. 118 CONG. REC. 29126, 92d Cong. 2d Sess., Aug. 18, 1972 [H.J. Res. 1227].

§ 4. Excusing or Disqualifying Members From Voting

§ 4.1 *Note:* Although the rules state that Members "shall vote on each question put . . ." (Rule VIII clause 1) it has been found impracticable to enforce this provision. *House Rules and Manual* § 658 (96th Cong.). Thus the casting of votes in the House is neither compelled nor excused, and a unanimous-consent request in the Committee of the Whole to excuse a Member from voting is out of order. 111 CONG. REC. 6096, 89th Cong. 1st Sess., Mar. 26, 1965. As to the procedure for obtaining a leave of absence, see Ch. 7 §§ 2, 3.

§ 4.2 Observance of the requirement of clause 1 Rule VIII, that each Member shall vote unless he has a direct personal or pecuniary interest in the question, is the responsibility of the individual Member, not the Speaker. 118 CONG. REC. 22554, 92d Cong. 2d Sess., June 27, 1972; 118 CONG. REC. 33497, 92d Cong. 2d Sess., Oct. 3, 1972 [H.R. 16645]; 121 CONG. REC. 38135, 94th Cong. 1st Sess., Dec. 2, 1975. The Speaker will not rule on a point of order challenging the personal or pecuniary interest of Members in a pending question, but will defer to the judgment of each Member as to the directness of his interest. 118 CONG. REC. 22554, 92d Cong. 2d Sess., June 27, 1972. See also 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 1, 1979 [H. Res. 1, to expel Charles C. Diggs]; in this instance, where a Member had voted on a motion to permit the reading in debate of a court transcript on which a pending resolution for his expulsion was in part based, the Chair overruled a point of order that such Member was prohibited because of his personal interest in the question from voting thereon, it being the responsibility of each Member to determine whether his personal interest is such as to prevent him from voting under Rule VIII.

§ 4.3 A Member may disqualify himself from voting on a measure because of a pecuniary interest in the measure being considered. For example, where a bill was pending relating to the reserves required to be maintained by certain banks, a Member disqualified himself on the vote because of a pecuniary interest in the question voted upon. 105 CONG. REC. 12504, 86th Cong. 1st Sess., July 1, 1959. Members have also abstained from voting on legislation dealing with urban renewal (111 CONG. REC. 18424, 89th Cong. 1st Sess., July 27, 1965), and on a bill to increase compensation for service-connected disabilities for veterans (108 CONG.

REC. 5561, 5568, 87th Cong. 2d Sess., Apr. 2, 1962). In one instance, a Member announced a disqualifying personal interest in a pending bill and stated his intention to vote "present" on the issue. 114 CONG. REC. 26038, 26042, 90th Cong. 2d Sess., Sept. 9, 1968 [H.R. 10564, pertaining to marketing orders on pears].

§ 4.4 Prior to consideration of a bill providing financial assistance to states and political subdivisions, the Speaker indicated that the bill in its reported form was sufficiently general in scope that Members holding municipal bonds or who had other financial interests dependent on the fiscal affairs of a particular city would merely be within a class of similarly situated individuals whose pecuniary interest would not be so direct as to preclude them from voting on the bill in that form.121 CONG. REC. 38135, 94th Cong. 1st Sess., Dec. 2, 1975.

§ 4.5 The Committee on Standards of Official Conduct submitted a report in response to a complaint filed with the committee alleging that a Member had violated Rule VIII clause 1, which provides that a Member not vote on questions in which he has a direct personal or pecuniary interest. The complaint alleged that Representative Robert L. Sikes, of Florida, had voted on a defense appropriations bill in 1974 which carried an appropriation for aircraft to be built by a private corporation in which Mr. Sikes owned substantial shares of stock. The committee found that Mr. Sikes had not violated Rule VIII clause 1, citing Speaker Carl Albert's response to a parliamentary inquiry on December 2, 1975, wherein he indicated (§ 4.4, supra) that a Member's ownership of stock did not disqualify him from voting on a bill general in scope, where he would be within a class of numerous individuals with similar pecuniary interests, and that each Member should make his own determination whether he should withhold his vote on a pending bill under Rule VIII clause 1. See House Report No. 1364, 94th Cong. 2d Sess. (1976). The House agreed to a resolution adopting the report, which reprimanded Mr. Sikes on other grounds. See Ch. 12 § 2, supra.

§ 5. Pairing of Votes

§ 5.1 *Note:* Pairing is a procedure available to Members who wish to indicate their position with respect to a question even though they are not present when the vote is taken, or who wish to be recorded merely as "present" on a proposition after having voted either for or against it pursuant to an agreement with an absent Member who would have voted on the other side of the question. 115 CONG. REC. 37996, 91st Cong. 1st Sess., Dec. 9, 1969 [H.R. 15149], where a Member withdrew his "no" vote on passage and, after announcing a "live pair," voted "present."

§ 5.2 Pairing is authorized by Rule VIII clause 2 and Rule XV clause 1. It is permitted prior to the announcement of the result of the vote. In 1975, the house amended Rule VIII clause 2 to permit pairing in Committee of the Whole. 121 CONG. REC. 20, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5].

§ 5.3 Pairs may not be announced at a time other than that prescribed by the rule. *House Rules and Manual* § 660 (96th Cong.). Accordingly, after the Speaker has announced the result of a roll call vote it is too late for a Member to withdraw his vote and vote "present" pursuant to a "live pair" with an absent Member. 118 CONG. REC. 34166, 92d Cong. 2d Sess., Oct. 5, 1972.

§ 5.4 On questions requiring a two-thirds majority Members are paired two in the affirmative against one in the negative. *House Rules and Manual* § 660 (96th Cong.). Where a Member with a "live pair" withdraws his "nay" vote on a vetoed bill and votes "present," the pair clerks include the name of a third Member who would have voted, if present, to override the veto (by the required two-

thirds vote) in order to pair two Members in favor with one against the question. 116 CONG. REC. 21552, 91st Cong. 2d Sess., June 25, 1970 (veto message on H.R. 11102). In one instance, a Member voted "no" and then came into the well before the Chair announced the result to announce his "live pair" with two absent Members who would have voted "aye" on the veto override, and the tally clerk at the rostrum then adjusted the electronic voting system to reflect the Member's change to vote to "present." See 119 CONG. REC. 29329, 29352, 93d Cong. 1st Sess., Sept. 12, 1973 [S. 504]. *Note:* Normally, "live pairs" on a vote being conducted by electronic device are accomplished by the Member voting "present" and then announcing his reasons for so doing in the well before the announcement of the result.

§ 5.5 A pair will be regarded as broken when a paired Member, expecting to be absent, arrives in time to cast his vote. 107 CONG. REC. 6731, 87th Cong. 1st Sess., Apr. 26, 1961.

§ 5.6 A Member may leave instructions with pair clerks that he is never to be paired, on any occasion. 108 CONG. REC. 22801, 87th Cong. 2d Sess., Oct. 8, 1962.

§ 5.7 Parties to pairs sometimes, by mutual consent, indicate their positions on the question by inserting after their names "for" and "against" respectively. See 109 CONG. REC. 19270, 88th Cong. 1st Sess., Oct. 10, 1963, where the majority and minority leaders were paired one "for" and one "against" on a motion to recommit.

§ 5.8 While the Chair does not interpret or take other cognizance of pairs, he may respond to a parliamentary inquiry concerning whether or not a particular Member's name was read by the Clerk as being paired. 115 CONG. REC. 37996, 91st Cong. 1st Sess., Dec. 9, 1969 [H.R. 15149].

§ 6. — Corrections in Pairing

§ 6.1 While the House does not take cognizance of pairs in the determination of voting results, a Member may, by unanimous consent, correct the Record where a pair is not properly listed. 88th Cong. 1st Sess., Dec. 10, 1963; 92d Cong. 2d Sess., Sept. 20, 1972. Thus, a Member, paired in favor of a proposition without his consent, asked unanimous consent that the pair be deleted from the permanent Record and Journal. 89th Cong. 2d Sess., May 16, 1966.

§ 6.2 The *Congressional Record* may be corrected by unanimous consent to show that Members paired as "for" and "against" a motion actually had been only "general" pairs (89th Cong. 1st Sess., Aug. 3, 1965), or to show that Members listed as having "live" pairs on a particular vote actually had only "general" pairs. 88th Cong. 1st Sess., May 27, 1963.

§ 6.3 A Member announced how he would have voted if present on the final passage of a bill, and then, by unanimous consent, deleted his "until further notice" pair with another Member from the *Congressional Record* to reflect that announcement. 118 CONG. REC. 14214, 92d Cong. 2d Sess., Apr. 25, 1972.

§ 7. Recording Votes Following Announcement of Result

§ 7.1 It is not in order, even by unanimous consent, to permit Members to have their votes recorded after the announcement of the result. 105 CONG. REC. 4039, 86th Cong. 1st Sess., Mar. 12, 1959; 106 CONG. REC. 10206, 86th Cong. 2d Sess., May 12, 1960; 117 CONG. REC. 6809, 92d Cong. 1st Sess., Mar. 17, 1971.

§ 7.2 The Speaker entertained a unanimous-consent request to permit a Member to correct the Record and Journal where he had inad-

vertently not been recorded on a quorum call taken by a call of the roll where the electronic voting system had been inoperative. 119 CONG. REC. (daily ed.), 93d Cong. 1st Sess., July 17, 1973.

B. VOTING BY TELLERS

§ 8. In General

§ 8.1 A teller vote (clause 5 Rule I) is a voting procedure wherein the Members cast their votes by passing through the center aisle to be counted by Member tellers, but not recorded. First the Members voting "aye" are counted, and then the Members voting "no" are counted. In a recorded vote by clerks, as the Members pass through the appropriate "aye" or "no" aisle, they cast their votes by depositing a signed green (yea) or red (no) card in a ballot box. The latter procedure has been largely supplanted by the use of the electronic voting equipment. See 117 CONG. REC. 3833, 92d Cong. 1st Sess., Feb. 25, 1971.

§ 8.2 When a request is made for tellers and almost simultaneously a demand for the yeas and nays in made, the demand for the yeas and nays, being a constitutional right, supersedes the request for tellers. 109 CONG. REC. 23950-53, 88th Cong. 1st Sess., Dec. 10, 1963. But tellers may be ordered on the question of the passage of a bill where a demand for the yeas and nays has been refused. 109 CONG. REC. 8082, 88th Cong. 1st Sess., May 8, 1963 [H.R. 5555].

§ 8.3 Where a teller vote in the Committee of the Whole results in a tie, the question is lost. 109 CONG. REC. 24752, 88th Cong. 1st Sess., Dec. 16, 1963 [H.R. 9499]; 110 CONG. REC. 16859, 88th Cong. 2d Sess., July 23, 1964 [H.R. 3846], where, on a tie vote by tellers in Committee of the Whole, an amendment was rejected; 113 CONG. REC. 22769, 90th Cong. 1st Sess., Aug. 16, 1967 [H.R. 2516].

§ 8.4 A vote by tellers is not subject to recapitulation. 113 CONG. REC. 23926, 90th Cong. 1st Sess., Aug. 24, 1967 [H.R. 12048].

§ 8.5 A Member may announce, in debate, the party division on a simple teller vote, but a disclosure of the names of Members voting in the affirmative or negative has been held not in order. 109 CONG. REC. 14295, 88th Cong. 1st Sess., Aug. 6, 1963.

§ 9. Demands for Tellers; Timeliness of Demand

§ 9.1 Tellers are ordered by one-fifth of a quorum—20 Members in the Committee of the Whole [44 Members in the House]. 114 CONG. REC. 706, 90th Cong. 2d Sess., Jan. 23, 1968 [during consideration of H.R. 8696], holding that 18 Members, even though constituting one-fifth of those present in the Committee of the Whole, are not sufficient to order tellers.

§ 9.2 Under Rule I clause 5, a teller vote or a recorded vote is ordered in the House by 44 Members. In Committee of the Whole, tellers are ordered by 20 Members, while a recorded vote is ordered by 25 Members under Rule XXIII clause 2(b), *House Rules and Manual* § 631 (96th Cong.). Since these rules do not prescribe the order or sequence in which teller votes and recorded votes are to be demanded, if a recorded vote is refused, a teller vote on that question is in order. 120 CONG. REC. 4447, 93d Cong. 2d Sess., Feb. 27, 1974. *Note:* The rules cannot be interpreted, however, to permit a subsequent demand for tellers if a recorded vote has been ordered on that question. The rule implicitly precludes a demand for tellers once a recorded vote has been ordered.

§ 9.3 Where a quorum call follows the refusal of the Committee of the Whole to order a re-

corded vote on an amendment and occurs before the transaction of further business, a Member is not precluded from demanding tellers on that amendment. 120 CONG. REC. 4447, 93d Cong. 2d Sess., Feb. 27, 1974.

§ 9.4 Where a Member demands tellers on an amendment in Committee of the Whole and then makes a point of order that a quorum is not present, the demand for tellers is held in abeyance pending the establishment of a quorum; and when the Committee of the Whole resumes its sitting upon the establishment of a quorum, the pending question is the ordering of tellers which were demanded immediately prior to the point of no quorum. 116 CONG. REC. 16258, 91st Cong. 2d Sess., May 20, 1970; 116 CONG. REC. 8563, 91st Cong. 2d Sess., Mar. 23, 1970.

§ 9.5 The right to demand tellers is not prejudiced by the fact that a point of no quorum and a call of the House intervene following a division of the pending question. 115 CONG. REC. 27041, 91st Cong. 1st Sess., Sept. 25, 1969. A demand for tellers has been held in order even after the absence of a quorum has prevented the Chair from announcing the adoption of the pending measure by division vote. Thus, where the Chair had announced the result of a division vote on an amendment but was precluded from announcing the adoption of the amendment by a point of order of no quorum, it was in order to demand tellers on the amendment upon the resumption of proceedings in Committee of the Whole. 116 CONG. REC. 33634, 91st Cong. 2d Sess., Sept. 24, 1970 [H.R. 18583]. For the modern rule that a point of no quorum may not be entertained until the Speaker has put the question on a pending proposition, See Ch. 20 § 12, supra.

§ 9.6 After tellers have been ordered by a fifth of a quorum, the Member making the demand for tellers may withdraw his request only by unanimous consent. 115 CONG. REC. 21231, 91st Cong. 1st Sess., July 29, 1969.

§ 10. Who Serves as Tellers

§ 10.1 The rules provide that, for a teller vote, the Chair "shall name one or more from each side of the question to tell the Members in the affirmative and the negative." Rule I clause 5(a). *Note:* The appointment of tellers is within the discretion of the Chair. Generally, the Chair appoints the proponent of the amendment and a Member in opposition, and he may appoint as one of the tellers the Member making the demand. 111 CONG. REC. 24635, 89th Cong. 1st Sess., Sept. 21, 1965 [S. 2300].

§ 10.2 In appointing tellers on a vote the Chair usually names a Member on each side of the question. 111 CONG. REC. 24635, 89th Cong. 1st Sess., Sept. 21, 1965 [S. 2300]. But when Members of one side have declined, both tellers may be appointed from the same side. *House Rules and Manual* § 631 (96th Cong.). A point of order that both tellers represent the same side of the pending issue comes too late after they have taken their places and Members have passed between them to be counted. 113 CONG. REC. 17748, 90th Cong. 1st Sess., June 28, 1967 [H.R. 10340].

§ 11. Voting by the Chair

§ 11.1 The Speaker has the same right to vote as other Members, but usually exercises it only to make or break a tie. *House Rules and Manual* § 632 (96th Cong.). He may count himself on a teller vote without passing through the tellers. 109 CONG. REC. 15589, 88th Cong. 1st Sess., Aug. 22, 1963 [H.R. 7885]; 111 CONG. REC. 24635, 89th Cong. 1st Sess., Sept. 21, 1965 [S. 2300]. And he may vote "aye" or "no" at any time prior to the final announcement of the vote. 117 CONG. REC. 9785, 92d Cong. 1st Sess., Apr. 6, 1971.

§ 11.2 The Chair may cast his vote, to make or break a tie on a vote by tellers, if the result of the vote has not been finally and conclusively declared and the Committee of the Whole has not proceeded to other business. 113 CONG. REC. 23918, 23926, 90th Cong. 1st Sess., Aug. 24, 1967 [H.R. 12048]. Thus the Chair may vote to make a tie and thus defeat a measure. 109 CONG. REC. 15589, 88th Cong. 1st Sess., Aug. 22, 1963 [H.R. 7885]; 111 CONG. REC. 24635, 89th Cong. 1st Sess., Sept. 21, 1965 [S. 2300]; 113 CONG. REC. 23918, 23926, 90th Cong. 1st Sess., Aug. 24, 1967 [H.R. 12048], where tellers had reported that the ayes were 139, the nays 138, the Chair announced the vote as reported, then cast his own vote in the negative to make a tie and defeat an amendment.

C. RECORDED VOTES

§ 12. In General; Demanding a Recorded Vote

§ 12.1 The demand for the yeas and nays under article I, section 5 of the U.S. Constitution must be supported by one-fifth of the Members present. Such a demand is in order only in the House, and not in the Committee of the Whole. A demand for a recorded vote in the House under Rule I clause 5 must be supported by one-fifth of a quorum (or 44 Members). 121 CONG. REC. 33004, 33005, 94th Cong. 1st Sess., Oct. 20, 1975. See also 117 CONG REC. 39352, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248] and 122 CONG. REC. 31668, 94th Cong. 2d Sess., Sept. 21, 1976 [H.R. 12048]. In the Committee of the Whole, a recorded vote is ordered on request if supported by at least 25 Members. Rule XXIII clause 2(b). The count of Members standing to support a demand for a recorded vote is not subject to challenge by appeal. 122 CONG. REC. 20390, 20391, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232].

§ 12.2 *Note:* Pursuant to Rule I clause 5, the Speaker must have put the question, although he need not announce the result of the vote, before a demand for a recorded vote is in order. See 120 CONG. REC. 33623, 93d Cong. 2d Sess., Oct. 2, 1974.

§ 12.3 A demand for a recorded vote may be made following a demand for the yeas and nays, providing the latter demand is first withdrawn [or does not receive a sufficient second]. 118 CONG. REC. 22981, 92d Cong. 2d Sess., June 28, 1972 [H.R. 13955]; 125 CONG. REC. 508, 96th Cong. 1st Sess., Oct. 30, 1979 [H.R. 4389]. Even the Member who has withdrawn a demand for the yeas and nays may request a recorded vote under clause 5 Rule I. 117 CONG. REC. 39352, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248]. Where one-fifth of the Members present have refused to order the yeas and nays on a motion to suspend the rules and that motion later becomes the unfinished business of the House under Rule XXVII clause 3(b), a Member may still demand a recorded vote on the motion. 122 CONG. REC. 31640, 31641, 31668, 94th Cong. 2d Sess., Sept. 21, 1976 [H.R. 12048].

§ 12.4 Only one request for a recorded vote on a pending question is in order. Thus, a request for a recorded vote on a pending question having been refused, a second request is not in order following a division vote on that question. 122 CONG. REC. 508, 94th Cong. 2d Sess., Jan. 21, 1976 [H.R. 6721]. Likewise, where a recorded vote is refused following the Chair's announcement of doubt on a voice vote, and a division vote is then taken at the Chair's initiative or on demand of any Member, the demand for a recorded vote may not be renewed. 123 CONG. REC. 5349, 95th Cong. 1st Sess., Feb. 24, 1977 [H.R. 11]. A similar rule is followed in the Committee of the Whole; where the Committee has refused

a request for a recorded vote, the request may be renewed only by unanimous consent. 123 CONG. REC. 17292, 95th Cong. 1st Sess., June 2, 1977 [H.R. 6804]. A request for a recorded vote on an amendment once denied may not be renewed in Committee of the Whole even where the absence of a quorum is disclosed immediately following the refusal to order a recorded vote. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 6, 1979 [H.R. 3875]. In this parliamentary situation, the proper remedy is to make the point of no quorum while the demand for a recorded vote is pending and the Chair is counting.

§ 12.5 It is too late to demand a recorded vote on an amendment agreed to by the House by voice vote after the Speaker has put the question on engrossment and third reading of the bill. 119 CONG. REC. 24966, 93d Cong. 1st Sess., July 19, 1973 [H.R. 8860]. It is likewise untimely to demand a recorded vote in the House on an amendment reported from Committee of the Whole and rejected by voice vote after the Clerk has reported the next amendment and the question has been put thereon by the Speaker. 119 CONG. REC. 24966, 93d Cong. 1st Sess., July 19, 1973 [H.R. 8860]. A similar rule is followed in the Committee of the Whole. A Member must be on his feet seeking recognition to demand a recorded vote when the Chair announced the result of a voice vote on an amendment to an amendment, and the demand comes too late after the Chair has put the question on the next amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 6, 1979 [H.R. 4473].

§ 12.6 The demand for a recorded vote is not timely if the Member making the demand is not on his feet seeking recognition at the time that the result of a vote by division is announced by the Chairman. 121 CONG. REC. 30233, 94th Cong. 1st Sess., Sept. 25, 1975. Similarly, the demand for a recorded vote on the question of passage of a bill is not timely if the Member making the demand is not on his feet seeking recognition for that purpose when the Chair announces the result of a voice vote thereon and announces that the bill is passed. 123 CONG. REC. 34223, 34224, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 1037]. However, a Member's demand for a recorded vote may be made after the Chair announces the result of a division vote *if no other business has intervened.* 123 CONG. REC. 17703, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10].

§ 12.7 *Note:* A demand for a recorded vote may be withdrawn before the Chairman begins to count Members supporting the demand, and unanimous consent is not required. See 121 CONG. REC. 38904, 94th Cong. 1st Sess., Sept. 17, 1975. A request for a recorded vote may likewise be withdrawn, without unanimous consent, before the Chair has announced the count of Members standing in support of the demand. 124 CONG. REC. 32053, 95th Cong. 2d Sess., Sept. 27, 1978 [H.R. 11733]; 124 CONG. REC. 38158, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 14014]. To the same effect, see 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [S. 869].

§ 13. Time Limitations

§ 13.1 Members have a minimum of 15 minutes from the time of the ordering of a recorded vote to be in the Chamber. Rule I clause 5. Members who are in the Chamber at the expiration of that time will be permitted to vote prior to the announcement of the result by the Chair; but a Member will not be permitted to record a vote after the announcement of the result. 117 CONG. REC. 27373, 92d Cong. 1st Sess., July 27, 1971 [H.R. 10061].

§ 13.2 On a call of the House conducted by electronic device, Members are permitted a minimum of 15 minutes to respond but the Chair has the discretion to allow additional time for Members to record their presence

before announcing the result. *House Rules and Manual* § 774b.

§ 13.3 Although Members have a minimum of 15 minutes in which to record their votes on a vote taken by electronic device (Rule XV clause 5), the Chair has discretion to close the vote and to announce the result at any time after 15 minutes have elapsed; and those precedents guaranteeing Members in the Chamber the right to have their votes recorded even if the Chair has announced the result *(House Rules and Manual* § 774b), which predate the use of an electronic voting system, do not require the Chair to hold open indefinitely a vote taken by electronic device. Thus, no point of order lies against the decision of the Chair in his discretion to close a vote taken by electronic device after 15 minutes have elapsed. 124 CONG. REC. 6839, 95th Cong. 2d Sess., Mar. 14, 1978.

§ 13.4 The 96th Congress adopted provisions amending Rule XV clause 5 to permit the Speaker discretion to reduce the electronic voting time to five minutes on the final passage or adoption of a bill or resolution or conference report if ordered immediately following a 15-minute vote on a motion to recommit. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. For an instance in which the Speaker invoked his authority under this change in the rules to permit a five-minute vote following a rollcall vote on a motion to recommit a bill, see 125 CONG. REC. p. ....., 96th Cong. 1st Sess. June 27, 1979 [H.R. 4394]. *Note:* Five-minute votes, at the Chair's discretion, are also permitted (1) immediately following a regular quorum call in Committee of the Whole (Rule XXIII clause 2); and (2) where the Chair "clusters" votes after the first 15-minute vote on final passage of bills, resolutions, or conference reports (Rule I clause 5), on adoption of reports from the Committee on Rules (Rule XI clause 4(e)), or on motions to suspend the rules (Rule XXVII clause 3).

§ 14. Changing or Recording Votes After the Count

§ 14.1 It is too late for a Member to cast a vote on a recorded vote after the Chair has announced the result of the vote (117 CONG. REC. 14584, 92d Cong. 1st Sess., May 12, 1971 [H.R. 8190]), even though the Member states that he was in the Chamber prior to the announcement. 117 CONG. REC. 34291, 92d Cong. 1st Sess., Sept. 30, 1971 [H.R. 10351]. Changes in votes cast are likewise barred following the announcement of the result of a recorded vote. 117 CONG. REC. 40062, 92d Cong. 1st Sess., Nov. 9, 1971 [H.R. 10729].

§ 14.2 Where a vote is being taken by electronic device, Members are permitted to change their votes by reinserting their voting cards in the voting stations during the first 10 minutes of 15-minute votes (or by announcement in the well after the Chair has asked for changes) or at any time during five-minute votes until the voting stations are closed by the Chair. See § 2, supra.

§ 14.3 Members who wish to change their votes on a recorded vote conducted by tellers with clerks may announce their vote change in the well prior to the announcement of the result. 119 CONG. REC. 23156, 23161, 93d Cong. 1st Sess., July 11, 1973. If the correction is made prior to the announcement of the result by the Chair, unanimous consent is not required. 117 CONG. REC. 27374, 92d Cong. 1st Sess., July 27, 1971 [H.R. 10061]. *Note:* Voting by tellers with clerks has been largely supplanted by the adoption of the electronic voting system.

§ 14.4 Where the possibility of confusion existed in the reporting by tellers of the result of a recorded vote conducted by tellers with clerks, the Chair indicated with respect to a recapitulation: (1) that the Chair could only announce the vote as reported to him by the clerks and that discrepancies between that an-

nouncement and the official tally would appear in the Record; and (2) there is no available procedure for a recapitulation of a vote taken by clerks. 117 CONG. REC. 8266, 92d Cong. 1st Sess., Mar. 29, 1971 [S.J. Res. 55].

§ 15. Changing Incorrectly Recorded Votes

§ 15.1 Members who have been incorrectly recorded on a nonelectronic vote taken by clerks pursuant to clause 5 Rule I have, by unanimous consent, had their votes corrected following the announcement of the result. 117 CONG. REC. 7023, 92d Cong. 1st Sess., Mar. 18, 1971 [H.J. Res. 468]. *Note:* The Chair will not entertain such requests after further business has been transacted. Corrections of electronically recorded votes, see § 2, supra.

D. VOTING BY THE YEAS AND NAYS

§ 16. In General

§ 16.1 Under the Constitution (U.S. Const. art. I § 5) one-fifth of the Members present may order a yea and nay vote. 111 CONG. REC. 19, 89th Cong. 1st Sess., Jan. 4, 1965. The Speaker's count of the House to determine whether one-fifth of those Members present have risen is not subject to verification by appeal. 124 CONG. REC. 28949, 95th Cong. 2d Sess., Sept. 12, 1978 [H.R. 12578].

§ 16.2 The constitutional provision on ordering the yeas and nays is applicable in the House but not in Committee of the Whole. 121 CONG. REC. 36147, 94th Cong. 1st Sess., Nov. 12, 1975; 123 CONG. REC. 17292, 95th Cong. 1st Sess., June 2, 1977 [H.R. 6804].

§ 16.3 *Note:* Pursuant to Rule I clause 5, the Speaker must put the question before a demand for the yeas and nays is in order. See 120 CONG. REC. 33623, 93d Cong. 2d Sess., Oct. 2, 1974.

§ 16.4 *Note:* The yeas and nays may be demanded while the Speaker is putting the question to a voice vote, is announcing the result of a division, while a vote by tellers is being demanded, and even after the announcement of the vote if the House has not passed on to other business. But a demand for the yeas and nays comes too late after the Speaker has put the question on a motion, announced the result, and the House has proceeded to other business. 106 CONG. REC. 17671, 86th Cong. 2d Sess., Apr. 25, 1960; 112 CONG. REC. 9230, 89th Cong. 2d Sess., Apr. 28, 1966. It has also been held that where the Chair has put a question to a voice vote, announced the result, and by unanimous consent laid the motion to reconsider on the table, it is too late to ask for the yeas and nays on that question where the Member was not seeking recognition at the time the question was put. 124 CONG. REC. 36976, 95th Cong. 2d Sess., Oct. 13, 1978.

§ 16.5 *Note:* Only one demand for the yeas and nays on the same proposition is in order. See *House Rules and Manual* § 77 (96th Cong.). A demand for the yeas and nays having been refused, and tellers then having been ordered, a second demand for the yeas and nays is not in order. 114 CONG. REC. 18938-40, 90th Cong. 2d Sess., June 26, 1968 [H.R. 18037].

§ 16.6 When the demand for the yeas and nays has been supported by one-fifth of the Members present, it is too late for the Member making the demand to withdraw it. 106 CONG. REC. 11304, 86th Cong. 2d Sess., May 26, 1960 [H.R. 10128]. However, in one instance in the 95th Congress, the proceedings whereby the yeas and nays were ordered on a motion to suspend the rules, on which the vote had been

postponed, were vacated by unanimous consent (where the electronic voting system was inoperative) and the Chair put the question de novo on the motion. 124 CONG. REC. 5716, 95th Cong. 2d Sess., Mar. 6, 1978 [H.J. Res. 578].

§ 16.7 The Clerk does not call the Speaker's name when the roll is called on a yea and nay vote; if the Speaker wishes to be recorded, he asks the Clerk to call his name at the conclusion of the call. 113 CONG. REC. 31287, 90th Cong. 1st Sess., Nov. 6, 1967 [S.J. Res. 33].

§ 17. As Related to Other Voting Procedures

§ 17.1 The demand for the yeas and nays under the U.S. Constitution, article I section 5, must be supported by one-fifth of the Members present, while a demand for a recorded vote under Rule I clause 5 of the House rules must be supported by one-fifth of a quorum. 121 CONG. REC. 33004, 33005, 94th Cong. 1st Sess., Oct. 20, 1975.

§ 17.2 A demand for the yeas and nays in the House under article I section 5 of the Constitution takes precedence over a demand for tellers under clause 5 Rule I of the House rules. 118 CONG. REC. 22981, 92d Cong. 2d Sess., June 28, 1972 [H.R. 13955]. Indeed, a demand for the yeas and nays is in order even after the ordering of tellers on the question, where the tellers have not taken their places and begun the count. 116 CONG. REC. 40704, 91st Cong. 2d Sess., Dec. 9, 1970 [H.J. Res. 1413]. However, the demand for the yeas and nays may not be made while the Chair is counting to ascertain whether one-fifth of a quorum supports the demand for tellers. 118 CONG. REC. 28915, 92d Cong. 2d Sess., Aug. 17, 1972 [H.R. 13915].

§ 17.3 A recorded vote taken by clerks pursuant to clause 5 Rule I does not preclude the constitutional right of a Member to demand the yeas and nays on that question. 118 CONG. REC. 28915, 92d Cong. 2d Sess., Aug. 17, 1972 [H.R. 13915].

§ 17.4 On any vote in the House, (1) the vote may be objected to (for lack of a quorum) under Rule XV clause 4, thereby precipitating an automatic ordering of the yeas and nays; (2) a recorded vote may be ordered by one-fifth of a quorum; or (3) the yeas and nays may be ordered by one-fifth of those present; and if a recorded vote is refused and Rule XV clause 4 is inapplicable because a quorum is present, the yeas and nays may still be ordered by one-fifth of those present. 124 CONG. REC. 38553, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 12467].

§ 17.5 A demand for the yeas and nays is in order notwithstanding the intervention of an objection to a voice vote on the grounds that a quorum was not present and the Chair's count of the House to ascertain the presence of a quorum. 113 CONG. REC. 30999, 90th Cong. 1st Sess., Nov. 2, 1967.

§ 18. Time for Casting or Changing Vote

§ 18.1 A Member may not be recorded on a yea and nay vote after the result of the vote has been announced (108 CONG. REC. 5438, 87th Cong. 2d Sess., Mar. 29, 1962), even though he was present in the Chamber during the vote. 113 CONG. REC. 19300, 90th Cong. 1st Sess., July 18, 1967. For timeliness of vote under the electronic voting system, see § 2, supra.

§ 18.2 Where a Member changes his vote following a roll call, before its announcement by the Chair, the change appears in the Record. 115 CONG. REC. 40456, 91st Cong. 1st Sess., Dec. 20, 1969 [roll call 346], where a Member changed his vote twice following his initial response to a roll call.

§ 19. Recapitulations

§ 19.1 A Member may not demand a recapitulation of a vote taken by electronic device. 121 CONG. REC. 25841, 94th Cong. 1st Sess., July 30, 1975. The recapitulation of such votes is refused because all Members may determine whether they were correctly recorded by examining the display panel over the Speaker's rostum (121 CONG. REC. 28903, 94th Cong. 1st Sess., Sept. 17, 1975) and because, even if the display panels are inoperative, individual votes and vote totals may be verified through the voting and monitoring stations. 124 CONG. REC. 18260, 95th Cong. 2d Sess., June 21, 1978.

§ 19.2 Votes that do not involve the use of the electronic voting system are subject to recapitulation at the discretion of the Speaker, either before or after the announcement of the result. 105 CONG. REC. 17752, 86th Cong. 1st Sess., Sept. 2, 1959. But the Speaker may decline to entertain a request for a recapitulation of such a vote until after the announcement of the vote. See 108 CONG. REC. 23434, 87th Cong. 2d Sess., Oct. 12, 1962. The greater the numerical difference between the vote totals, the greater the likelihood that the Speaker will decline to order a recapitulation. In one instance, the Speaker declined to order a recapitulation where the difference in the vote was as great as 10. 108 CONG. REC. 11383, 87th Cong. 2d Sess., June 21, 1962 [H.R. 11222]. And in another, the Speaker declined to order a recapitulation where there was a four-vote difference. 115 CONG. REC. 29315, 91st Cong. 1st Sess., Oct. 9, 1969 [H.R. 11612].

§ 19.3 A Member may not change his vote on recapitulation if the result has been announced, but errors in the record of such votes may be corrected. *House Rules and Manual* § 765 (96th Cong.). Corrections of votes on recapitulation are made after the Clerk reads the names of the Members voting yea and again after the nays are read. 105 CONG. REC. 17752, 86th Cong. 1st Sess., Sept. 2, 1959.

§ 20. Announcements as to How Member Would Have Voted

§ 20.1 A Member may announce how he would have voted when the roll was called had he been present to vote. 105 CONG. REC. 8690, 86th Cong. 1st Sess., May 20, 1959. But neither the rules nor the practice permit a Member to announce after a record vote how absent colleagues would have voted if present. *House Rules and Manual* § 767 (96th Cong.).

§ 21. Erroneously Recorded Votes; Correcting the Record

§ 21.1 The Speaker declines to entertain requests to correct the Journal and Record on votes taken by electronic device, based on the technical accuracy of the electronic system if properly utilized and on the responsibility of each Member to correctly cast and verify his vote. *House Rules and Manual* § 766 (96th Cong.).

§ 21.2 Where the electronic voting system is not in use, and a Member is incorrectly recorded on a rollcall and corrects his vote before the announcement of the result, his vote is correctly recorded and the change is noted in the Record. 107 CONG. REC. 18256, 87th Cong. 1st Sess., Sept. 6, 1961 [H.R. 9000]. After the announcement of the result of such a vote, while it is not permissible to change a vote, it is permissible for a Member to seek unanimous consent to correct the Record, where his vote was incorrectly recorded or, though cast, was not recorded. 105 CONG. REC. 9335, 86th Cong. 1st Sess., May 28, 1959; 109 CONG. REC. 16697, 88th Cong. 1st Sess., Sept. 10, 1963. In entertaining such requests,

the Chair does not pass judgment on the Member's explanation as to how he was improperly recorded or how, though present and having voted, he was not recorded, nor does he challenge the Member's word on how he voted during the rollcall. See 105 CONG. REC. 9335, 86th Cong. 1st Sess., May 28, 1959.

§ 21.3 A Member, ascertaining that an absent colleague has been inadvertently recorded on a [nonelectronic] rollcall vote, may have the vote deleted by unanimous consent, prior to the announcement of the result. 109 CONG. REC. 10871, 88th Cong. 1st Sess., June 13, 1963; 109 CONG. REC. 14758, 88th Cong. 1st Sess., Aug. 12, 1963.

E. DIVISIONS

§ 22. Voting by Division

§ 22.1 Under clause 5 Rule I, after a voice vote, if the Speaker is in doubt or a division is called for, "the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative. . . ."

§ 22.2 A demand for a division is in order following the taking of a voice vote. 113 CONG. REC. 26120, 26122, 90th Cong. 1st Sess., Sept. 20, 1967 [H.R. 6418]. The demand comes too late when the Member making it was not on his feet seeking recognition at the time the Chair announces the result of the voice vote. See 117 CONG. REC. 398, 92d Cong. 1st Sess., July 30, 1971 [H.R. 8432]. However, the announcement of a voice vote does not preclude a subsequent demand for a division providing no intervening business transpired and the proponent of the motion for division was on his feet seeking recognition at the time of the announcement. 108 CONG. REC. 771, 87th Cong. 2d Sess., Jan. 23, 1962 [H.R. 7927]; 113 CONG. REC. 26120, 26122, 90th Cong. 1st Sess., Sept. 20, 1967 [H.R. 6418]. In this regard it has been held that a parliamentary inquiry as to the status of the announcement and the effect of adoption of an amendment is not such intervening business as to prevent a demand for a division vote where the Chairman has indicated that he would preserve the rights of the Member propounding the inquiry. 121 CONG. REC. 7953, 94th Cong. 1st Sess., Mar. 21, 1975.

§ 22.3 *Note:* A demand for a division vote after a voice vote is not precluded by the fact that the yeas and nays or a teller vote has been refused, where the result of the voice vote has not been finally declared by the Chair. 117 CONG. REC. 40054, 92d Cong. 1st Sess., Nov. 9, 1971 [H.R. 10729]. See also 116 CONG. REC. 33618, 91st Cong. 2d Sess., Sept. 24, 1970 [H.R. 18583].

§ 22.4 When the Chair has put the question and is in doubt as to the result of a voice vote, the demand for a recorded vote takes precedence over a division vote demanded by a Member. 123 CONG. REC. 5349, 95th Cong. 1st Sess., Feb. 24, 1977 [H.R. 11]. However, following a voice vote in the Committee of the Whole and pending a demand from the floor for a recorded vote, the Chair may on his own initiative under Rule I clause 5 request and conduct a division vote before entertaining the demand for a recorded vote. 123 CONG. REC. 34717, 95th Cong. 1st Sess., Oct. 20, 1977 [H.R. 9375].

§ 22.5 Where a vote by division is in progress and the Chair is counting, it cannot be interrupted by a demand for a recorded vote. 121 CONG. REC. 18048, 94th Cong. 1st Sess., June 10, 1975.

§ 22.6 A parliamentary inquiry may not interrupt a division; but such inquiries are entertained until the Chair asks those in favor of the proposition to rise. 112 CONG. REC. 24455-57, 89th Cong. 2d Sess., Sept. 29, 1966 [H.R. 15111].

§ 22.7 A recapitulation is not in order on a vote taken by division. 124 CONG. REC. 5496, 95th Cong. 2d Sess., Mar. 3, 1978.

§ 23. Division of the Question for Voting

§ 23.1 A question which consists of two or more substantive propositions is subject to a division of the question, if demanded (clause 6 Rule XVI). 111 CONG. REC. 20948, 89th Cong. 1st Sess., Aug. 18, 1965 [H.R. 9811]; 123 CONG. REC. 9847, 95th Cong. 1st Sess., Mar. 31, 1977. The procedure is applicable to an amendment consisting of several substantive propositions under consideration in the Committee of the Whole. 111 CONG. REC. 20948, 89th Cong. 1st Sess., Aug. 18, 1965 [H.R. 9811]; 120 CONG. REC. 9849, 9854, 9855, 93d Cong. 2d Sess., Apr. 4, 1974.

§ 23.2 A question consisting of at least two distinct propositions may be divided on demand at any time before the question is put to the House for a vote. 121 CONG. REC. 38717, 94th Cong. 1st Sess., Dec. 4, 1975; 122 CONG. REC. 29538, 94th Cong. 2d Sess., Sept. 9, 1976 [H.R. 10498].

§ 23.3 *Note:* To be subject to a demand for a division of the question, an amendment must present separate propositions, both grammatically and substantively, so that if one proposition is rejected a separate proposition will logically remain. See 121 CONG. REC. 7653, 94th Cong. 1st Sess., Mar. 20, 1975; 122 CONG. REC. 15506, 94th Cong. 2d Sess., May 26, 1976 [H.R. 12945]. Pursuant to the rule that the proposal must contain two or more separate substantive propositions, it has been held that a resolution (1) censuring a Member and (2) adopting the committee report recommending censure on the basis of the committee's findings, is not divisible since these questions are substantially equivalent. 124 CONG. REC. 37009, 95th Cong. 2d Sess., Oct. 13, 1978 [H. Res. 1416]. But a resolution confirming the nomination of individuals to an executive branch office is subject to a division of the question so as to obtain a separate vote on each nominee. 121 CONG. REC. 7344, 94th Cong. 1st Sess., Mar. 19, 1975 [H. Res. 314]. A concurrent resolution on the budget has been held divisible where both the grammatical and substantive tests for divisibility were met. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 7, 1980 [H. Con. Res. 307].

§ 23.4 Rule XVI clause 6 permits a division of the question on an amendment on the demand of any Member where the question is properly divisible into two or more substantive propositions. 120 CONG. REC. 9849, 9854, 9855, 93d Cong. 2d Sess., Apr. 4, 1974. Such a request does not require unanimous consent. 121 CONG. REC. 19767, 94th Cong. 1st Sess., June 19, 1975.

§ 23.5 A division of the question may be demanded on an amendment before amendments are adopted thereto, or on the amendment as amended (assuming that perfecting amendments or an adopted substitute do not destroy the divisibility of the amendment as amended). 123 CONG. REC. 34259, 95th Cong. 1st Sess., Oct. 19, 1977 [H.R. 9375]. *Note:* A substitute is not subject to a demand for a division of the question (126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980); but the amendment, as amended, may be divided. If the substitute is adopted, the demand for a division of the question must be renewed in order to determine whether the amendment as amended by the substitute is still divisible.

§ 23.6 Where a division of the question has been demanded on separable portions of an amendment, an amendment to any of those portions may be offered until the Chair puts the question on the first portion of the amendment. And in one instance where a vote had been taken on the first portion of a divisible amendment, an amendment to the remaining portion of the amendment was held no longer

in order. 122 CONG. REC. 29530, 94th Cong. 2d Sess., Sept. 9, 1976 [H.R. 10498]. See also 121 CONG. REC. 19768, 94th Cong. 1st Sess., June 19, 1975, where an amendment was divided for a vote, the first part modified by unanimous consent and then agreed to, and the second part then withdrawn by unanimous consent.

§ 23.7 An amendment proposing to strike out two or more sections of a pending amendment may, on the demand of a Member, be divided in order to obtain separate votes on the proposal to strike out each section. 120 CONG. REC. 25238, 25239, 93d Cong. 2d Sess., July 25, 1974. A negative vote on a motion to strike out a portion of a pending amendment does not prevent a demand for a division of that portion of the amendment if it is a separate proposition and therefore properly severable. 111 CONG. REC. 20956, 89th Cong. 1st Sess., Aug. 18, 1965 [H.R. 9811]. In one instance, an amendment proposing to strike out a provision in a bill and to redesignate subsequent paragraphs accordingly, was held not to be subject to a demand for a division, since it contained only one substantive proposition. 120 CONG. REC. 38746, 93d Cong. 2d Sess., Dec. 10, 1974.

§ 23.8 A demand for a division of the question on a separable portion of an amendment may be withdrawn only by unanimous consent once the Chair has put the question on the first portion of the amendment. 122 CONG. REC. 29540, 94th Cong. 2d Sess., Sept. 9, 1976 [H.R. 10498]. *Note:* If the Chair had not put the question on the first portion of the amendment, the demand for a division of the question could have been withdrawn without unanimous consent being required.

§ 23.9 Consideration of several amendments en bloc by unanimous consent does not prevent a division of the question from being demanded so as to obtain a separate vote on one of the amendments. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 14, 1979 [H.R. 5980]. And by unanimous consent a Member may be permitted to offer several amendments en bloc and to divide the question for a separate vote on each one. 112 CONG. REC. 12881, 89th Cong. 2d Sess., June 9, 1966 [H.R. 14929].

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Chapter 31

Points of Order; Parliamentary Inquiries

A. Points of Order

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§ 9. In General

§ 10. When in Order

A. Points of Order

§ 1. In General; Effect

§ 1.1 *Note:* A point of order is in effect an objection that the pending matter or proceeding is in violation of some rule or practice of the House. It may also constitute a demand for an immediate return to the regular order. The Chair has the right to recognize a Member during a debate to make a point of order relative to the conduct of the debate, and it is not necessary that the Member having the floor yield for that purpose. 124 CONG. REC. 38155, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 14014]. In this instance, the Chair rejected the contention of the Member having the floor that he could refuse to yield to a Member seeking to make a point of order.

§ 1.2 The proper method for opposing a point of order is to seek recognition for that purpose at the proper time, not by making a point of order against the point of order. 121 CONG. REC. 29333, 94th Cong. 1st Sess., Sept. 18, 1975 [H.R. 7014].

§ 1.3 It is within the discretion of the Chair as to whether he will entertain more than one point of order to a paragraph at the same time, and he may then rule on both points at the same time. 112 CONG. REC. 7103, 89th Cong. 2d Sess., Mar. 29, 1966 [H.R. 14012]. The reservation of a point of order by one Member does not preclude another from pressing a point of order 113 CONG. REC. 19408-13, 90th Cong. 1st Sess., July 19, 1967 [H.R. 421].

§ 1.4 Where amendments to succeeding sections or paragraphs are by unanimous consent considered en bloc, a single point of order may be lodged against them. 115 CONG. REC. 21653, 21675, 91st Cong. 1st Sess., July 31, 1969 [H.R. 13111].

§ 1.5 A point of order against any part of an amendment, if sustained, is sufficient to invalidate the entire amendment. 116 CONG. REC. 19841, 91st Cong. 2d Sess., June 16, 1970 [H. Res. 1077].

§ 1.6 A point of order against an amendment to a bill must be determined in relation to the bill as modified by disposition of prior points of order. 124 CONG. REC. 17626, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934].

§ 1.7 Under a special procedure permitting points of order to be raised "against any title, part or section of an Education and Labor Committee amendment in the nature of a substitute the subject matter of which is properly within the jurisdiction of any other standing committee", a point of order on that ground is only in order against portions of the committee substitute and not against amendments offered from the floor. 117 CONG. REC. 39337, 92d Cong. 1st Sess., Apr. 11, 1971 [H.R. 7248]. In a similar instance, where a special rule permitted points of order against "any title, part or section" of a committee substitute within the jurisdiction of another committee, the Chair sustained a point of order against a section which contained a subsection outside that committee's jurisdiction (although the section as a whole was within that jurisdiction) under the principle that if a point of order is sustained against a portion of a pending section the entire section may be ruled out of order. 117 CONG. REC. 39281, 39286, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248].

§ 1.8 The Chair may consider legislative history established during debate on an amendment against which a point of order had been reserved in resolving any ambiguity in the amendment when ruling on the point of order subsequently made. 124 CONG. REC. 17651, 95th Cong. 2d Sess., June 14, 1978.

§ 1.9 The Chair may examine the form of an offered amendment to determine its propriety and may rule it out of order even where no point of order is raised from the floor and

debate has begun. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 8, 1980 [S. 1309].

§ 2. Reserving Points of Order

§ 2.1 A Member may reserve a point of order against a measure and then, after debate on the measure, either press or withdraw the point of order. 115 CONG. REC. 31886, 31888, 91st Cong. 1st Sess., Oct. 28, 1969 [H.J. Res. 966]. Compare 118 CONG. REC. 13114, 92d Cong. 2d Sess., Apr. 18, 1972 [H.R. 45], where the Chair indicated, after a Member attempted to "reserve the right to object," that a reservation of objection did not constitute the reservation of a point of order.

§ 2.2 The reservation of a point of order against a proposition is within the discretion of the Chair and does not require unanimous consent. 120 CONG. REC. 8264, 93d Cong. 2d Sess., Mar. 26, 1974 [H.R. 69].

§ 2.3 The reservation of a point of order against an amendment at the proper time reserves all points of order against the amendment. The reserving Member need not specify the basis of his reservation. 119 CONG. REC. 24950, 24951, 93d Cong. 1st Sess., July 19, 1973 [H.R. 8860].

§ 2.4 Where one Member has made a point of order against an amendment, the Chair will not permit another Member to reserve a point of order but will endeavor to dispose of all points of order before debate is had on the amendment. 120 CONG. REC. 5449, 93d Cong. 2d Sess., Mar. 6, 1974 [H.R. 11793].

§ 2.5 Reservation of a point of order against an amendment or the continuation of such a reservation may be permitted until such time as a Member demands the "regular order." 119 CONG. REC. 10395, 10396, 93d Cong. 1st Sess., Apr. 4, 1973 [H.R. 5683]; 119 CONG. REC. 41736, 41738, 93d Cong. 1st Sess., Dec. 14, 1973. If the regular order is called for after a point of order has been reserved, the Chair hears and rules on the point of order as expeditiously as possible. 109 CONG. REC. 6130-32, 88th Cong. 1st Sess., Apr. 10, 1963 [H.R. 5517]. However, once a point of order has been reserved and the debate begun the proponent of the amendment may not be taken from his feet by a demand for the regular order. See 121 CONG. REC. 26945, 26946, 94th Cong. 1st Sess., Aug. 1, 1975 [H.R. 7014].

§ 2.6 The Chair inquires whether Members who have reserved a point of order against an amendment insist on their points of order before recognizing a Member to speak in opposition to the amendment under the five-minute rule. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 4, 1979 [H.R. 3324].

§ 2.7 The reservation of a point of order against an amendment inures to all Members, who may raise other points of order before the intervention of further debate if the original point of order is overruled or withdrawn. Thus, where one Member reserves a point of order against an amendment and the point of order is thereafter overruled, another Member may immediately make another point of order before debate is had on the amendment. 118 CONG. REC. 22098, 92d Cong. 2d Sess., June 22, 1972 [H.R. 15585]. But a point of order must be pressed when the Chair inquires whether the Member originally reserving the point of order wishes to insist upon it, and comes too late after that Member has stated that he does not insist on his point of order and further debate has intervened on the amendment. 124 CONG. REC. 23921, 23922, 95th Cong. 2d Sess., Aug. 2, 1978 [H.R. 12514].

§ 2.8 The reservation of a point of order being withdrawn, another Member may immediately renew it (105 CONG. REC. 14524, 86th Cong. 1st Sess., July 28, 1959 [H.R. 8385]), or press another point of order. 108 CONG. REC. 5164, 87th Cong. 2d Sess., Mar. 27, 1962 [H.R. 10904]. Thus, where a Member reserves a

point of order against an amendment and then, after debate on the amendment, withdraws the point of order, the point of order may be renewed by another Member. 115 CONG. REC. 31886, 31888, 91st Cong. 1st Sess., Oct. 28, 1969 [H.J. Res. 966].

§ 3. Time to Raise Points of Order

§ 3.1 A point of order against a privileged resolution is properly raised when the resolution is called up, before debate is had on the resolution. 110 CONG. REC. 20212, 88th Cong. 2d Sess., Aug. 19, 1964 [H. Res. 845]. Accordingly, a point of order that the text of a privileged resolution does not reflect the action of the reporting committee comes too late after there has been debate on the resolution. 116 CONG. REC. 27449-51, 91st Cong. 2d Sess., Aug. 5, 1970 [H. Res. 1117].

§ 3.2 A point of order against a report involving the privileges of the House is properly raised after the report is read. 112 CONG. REC. 27439-48, 27481-85, 89th Cong. 2d Sess., Oct. 18, 1966 [H. Rept. No. 2302].

§ 3.3 The Chair may in his discretion require all points of order against a pending measure for alleged violation of a particular House rule to be stated at the same time, to allow the Chair to rule separately on each point of order in such order as he determines. 122 CONG. REC. 33020, 94th Cong. 2d Sess., Sept. 28, 1976 [conf. rept. on S. 521]. *Note:* In this instance there were pending several points of order that the conferees had exceeded the scope of the differences committed to conference as well as a point of order relating to open conferences. In first disposing of the Rule XXVIII clause 6 point of order on open conference meetings and then entertaining all scope points of order before ruling thereon, the Chair stated the principle that in the Chair's discretion all points of order *under one particular rule* may be considered together. This procedure enables the Speaker to save the time of the House by hearing all points of order and then sustaining any valid point of order without overruling all the others. See also 124 CONG. REC. 17647, 95th Cong. 2d Sess., June 14, 1978 [H.R. 12934], indicating that, where several points of order are made against an amendment and the Chair sustains one, he need not rule on the remaining points of order as the amendment is no longer pending.

§ 4. — Against Bills

§ 4.1 *Note:* Where a point of order against a measure would, if sustained, prevent its consideration, the appropriate time to make the point of order is when the measure is called up in the House or pending the motion to resolve into the Committee of the Whole, whichever procedure represents initial consideration of the measure. 121 CONG. REC. 28270, 94th Cong. 1st Sess., Sept. 10, 1975 [H.R. 9005]. A Member may not insist on a point of order against the consideration of a bill where the manager of the bill withdraws the motion that the House resolve itself into the Committee of the Whole for consideration of the bill (125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 3, 1979 [H.R. 48621]); and the point of order must be made anew when the motion is again made to resolve into Committee for consideration of that bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 4, 1979 [H.R. 4962].

§ 4.2 Points of order against a bill or portion thereof are considered by the Chair prior to recognition of Members to offer amendments. 105 CONG. REC. 14529, 86th Cong. 1st Sess., July 28 1959; 120 CONG. REC. 20591, 20592, 93d Cong. 2d Sess., June 21, 1974 [H.R. 15472]. It follows that points of order against a paragraph of a bill are considered by the Chair before Members are recognized to offer amendments to that paragraph. 116 CONG. REC. 18395, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867]. If by unanimous consent a bill is

considered read and open to amendment at any point, points of order should be stated before any amendments are offered. 108 CONG. REC. 21883, 87th Cong. 2d Sess., Oct. 3, 1962 [H.R. 13273]. Points of order against the text of a title of a committee amendment in the nature of a substitute being read by titles must be made immediately after unanimous consent is granted to consider the title as read and open to amendment. But such consent does not affect points of order which might lie against amendments to that title or against a subsequent title not yet read. 118 CONG. REC. 34115, 92 Cong. 2d Sess., Oct. 5, 1972 [H.R. 16656].

§ 4.3 In the Committee of the Whole, a point of order against a paragraph of an appropriation bill is not in order until that paragraph is read for amendment (116 CONG. REC. 4012, 91st Cong. 2d Sess., Feb. 19, 1970), and must be raised immediately thereafter. 116 CONG. REC. 18395, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867]. A point of order against language in a paragraph of an appropriation bill comes too late after the paragraph has been read and an amendment thereto has been agreed to. 107 CONG. REC. 10178, 87th Cong. 1st Sess., June 13, 1961 [H.R. 7577]. See also Ch. 25 § 21, supra, for more comprehensive treatment of points of order against appropriation bills.

§ 4.4 The Chair may recognize for a point of order against language in a bill notwithstanding intervening debate where the Member raising the point of order was on his feet, seeking recognition, before debate began. 105 CONG. REC. 7905, 86th Cong. 1st Sess., May 11, 1959 [H.R. 7040]. Indeed, a Member who is on his feet seeking recognition at the proper time to make a point of order may be recognized by the Chair even though the Clerk has read past the language to which the point of order applies. 107 CONG. REC. 19729, 87th Cong. 1st Sess., Sept. 15, 1961 [H.R. 9169]; 116 CONG. REC. 18395, 91st Cong. 2d Sess., June 4, 1970 [H.R. 17867]. But the mere fact that a Member was on his feet does not entitle him to make a point of order where he has not affirmatively sought recognition at the time the language complained of was read for amendment. 116 CONG. REC. 11648, 91st Cong. 2d Sess., Apr. 14, 1970 [H.R. 16916].

§ 4.5 In one instance, the Chair entertained a point of order against a portion of a paragraph which had been passed in the reading for amendment, where the Committee of the Whole had agreed that the entire bill (rather than the remainder of the bill) would be open to any point of order and where the point of order was conceded by the manager of the bill. 118 CONG. REC. 19900, 92d Cong. 2d Sess., June 7, 1972 [H.R. 15259].

§ 5. — Against Amendments

§ 5.1 A point of order against an amendment is properly made (or reserved) immediately after the reading thereof (112 CONG. REC. 7115, 7118, 89th Cong. 2d Sess., Mar. 29, 1966 [H.R. 14012]; 117 CONG. REC. 5856-58, 92d Cong. 1st Sess., Mar. 10, 1971 [H.R. 4246]; 121 CONG. REC. 21628, 94th Cong. 1st Sess., July 8, 1975), or following agreement to a unanimous-consent request that the amendment be considered as read. 118 CONG. REC. 10749–51, 92 Cong. 2d Sess., Mar. 29, 1972.

§ 5.2 While a point of order may be pressed against an amendment when enough of the text has been read to show that it is out of order, the Chair may decline to rule on the point of order until the entire amendment has been read. 119 CONG. REC. 41716-18, 93d Cong. 1st Sess., Dec. 14, 1973 [H.R. 11450].

§ 5.3 A point or order that has been reserved against a pending amendment should be disposed of before amendments to that amendment are offered. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 20, 1979 [H.R.

2283] (indicating that a Member who has offered an amendment against which a point of order has been reserved may not during his time for debate yield to another Member to offer an amendment to the amendment). Similarly, a point or order against certain language must be decided prior to recognition of another Member to offer an amendment to the challenged language. 112 CONG. REC. 10894-96, 89th Cong. 2d Sess., May 18, 1966 [H.R. 14544].

§ 5.4 A point of order against an amendment is not entertained where business (the granting of a unanimous-consent request) has intervened between the reading of the amendment and the making of the point of order unless the intervening business is vacated. 115 CONG. REC. 17080, 91st Cong. 1st Sess., June 24, 1969 [H.R. 12307]. A point of order against an amendment has been held to come too late after the reading thereof and after the Chair has entertained and responded to a parliamentary inquiry from another Member. 115 CONG. REC. 33133, 91st Cong. 1st Sess., Nov. 5, 1969 [H.R. 6778].

§ 5.5 Mere recognition for debate does not preclude a point of order against an amendment if no debate has intervened. Thus, a point of order against an amendment does not come too late where the proponent of the amendment has been recognized but has not yet begun his remarks. 115 CONG. REC. 21458, 91st Cong. 1st Sess., July 30, 1969 [H.R. 13111]. And if the point of order against the amendment is overruled, the Chair may entertain a further point of order if the Member offering the amendment has not yet begun debate thereon. 117 CONG. REC. 41801, 92d Cong. 1st Sess., Nov. 17, 1971 [H.R. 11731]. But a point of order against an amendment comes too late after the proponent of the amendment has been recognized and granted permission to revise and extend his remarks. 115 CONG. REC. 17080, 91st Cong. 1st Sess., June 24, 1969 [H.R. 13207]; 119 CONG. REC. 26191, 26192, 93d Cong. 1st Sess., July 26, 1973 [H.R. 9360]. Compare 124 CONG. REC. 17650, 95th Cong. 2d Sess., June 14, 1978, indicating that the granting of a unanimous-consent request to revise and extend, made after the reading of an amendment and *prior to the Chair's formal recognition to commence debate,* did not preclude a timely point of order against the amendment.

§ 5.6 A point of order against an amendment comes too late after there has been debate on the amendment. 107 CONG. REC. 9349, 87th Cong. 1st Sess., June 1, 1961; 113 CONG. REC. 19417, 90th Cong. 1st Sess., July 19, 1967 [H.R. 421]; 119 CONG. REC. 15320, 93d Cong. 1st Sess., May 10, 1973 [H.R. 7447]. It should be made or reserved before the proponent of the amendment has been recognized to debate the amendment. 124 CONG. REC. 6286, 95th Cong. 2d Sess., Mar. 9, 1978 [H.R. 50]; 124 CONG. REC. 17626, 95th Cong. 2d Sess., June 14, 1978. It cannot be raised after the proponent of the amendment has been recognized and has begun his explanation of the amendment. 115 CONG. REC. 14074, 91st Cong. 1st Sess., May 27, 1969; 124 CONG. REC. 15332, 95th Cong. 2d Sess., May 24, 1978 [H.R. 10929]. The rereading of the amendment by unanimous consent after there has been debate does not permit the intervention of a point of order against the amendment. 117 CONG. REC. 39302, 92d Cong. 1st Sess., Nov. 4, 1971 [H.R. 7248].

§ 5.7 A point of order against an amendment does not come too late where the Member raising the point is on his feet, seeking recognition, at the time the amendment is read and before debate begins. 107 CONG. REC. 17609-13, 87th Cong. 1st Sess., Aug. 30, 1961 [H.R. 8028]; 113 CONG. REC. 26878, 90th Cong. 1st Sess., Sept. 26, 1967 [H.R. 12120]; 115 CONG. REC. 21458, 91st Cong. 1st Sess., July 30, 1969 [H.R. 13111].

§ 5.8 In the House, a point of order against an amendment is untimely where the amendment had been agreed to in Committee of the Whole and reported to the House, the proper time having been at the point the amendment was offered in Committee. 118 CONG. REC. 19479, 19481, 19483, 92d Cong. 2d Sess., June 1, 1972 [H.R. 13918].

§ 6. Debate on Points of Order

§ 6.1 Recognition and time for debate on a point of order are within the discretion of the Chair, and a Member speaking on a point of order does not control a fixed amount of time which he can reserve or yield. 122 CONG. REC. 34075, 94th Cong. 2d Sess., Sept. 30, 1976; 124 CONG. REC. 4451, 95th Cong. 2d Sess., Feb. 23, 1978 [H.R. 9214]. Debate time on points of order against an amendment does not come out of time allotted for debate on the merits of the amendment under the five-minute rule. The proponent of the amendment need not reserve a portion of his time under the five-minute rule to oppose any points of order if made, as separate debate time is permitted on points of order at the discretion of the Chair. 121 CONG. REC. 26945, 94th Cong. 1st Sess., Aug. 1, 1975 [H.R. 7014]. Once a point of order has been reserved against an amendment and debate has commenced under the five-minute rule, the Chair will permit the proponent of the amendment to utilize the time allotted him before hearing arguments on the point of order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 20, 1979 [H.R. 2283].

§ 6.2 Debate on a point of order is limited to the question of order and may not go to the merits of the proposition being considered. 113 CONG. REC. 19412, 90th Cong. 1st Sess., July 19, 1967 [H.R. 421]; 116 CONG. REC. 38971, 91st Cong. 2d Sess., Nov. 25, 1970 [H.R. 19504]; 122 CONG. REC. 20371, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232]. However, debate on a point of order against an amendment to a general appropriation bill may address the relationship of the amendment to existing laws and authority. 124 CONG. REC. 16996, 95th Cong. 2d Sess., June 9, 1978 [H.R. 12933]. For a general discussion of points of order against appropriation bills, see Ch. 25 § 21, supra.

§ 6.3 Where a point of order is made and is conceded by the manager of the bill, the Chair may sustain the point of order without comment on its validity. 106 CONG. REC. 7941, 86th Cong. 2d Sess., Apr. 12, 1960 [H.R. 11666].

§ 6.4 The Chair will not entertain unanimous-consent requests to permit Members to revise and extend their remarks on points of order. 122 CONG. REC. 31874, 94th Cong. 2d Sess., Sept. 22, 1976 [H. Res. 1481].

§ 7. Waiver of Points of Order

§ 7.1 *Note:* A point of order may be deemed waived where it is not made in timely fashion. And where a motion which might have been subject to a point of order (if a point of order had been raised in a timely fashion) is, in the absence of a point of order, agreed to—it represents the will of the House and governs its procedure until the House orders otherwise. 114 CONG. REC. 30212-14, 90th Cong. 2d Sess., Oct. 8, 1968.

§ 7.2 Special "rules" or resolutions from the Committee on Rules providing for the consideration of a bill often contain provisions expressly waiving points of order against the bill or certain language therein. 114 CONG. REC. 12220, 90th Cong. 2d Sess., May 8, 1968 [H. Res. 1164, waiving points of order against a portion of H.R. 17023]. A resolution waiving points of order against a certain provision in a general appropriation bill has been considered

and agreed to by the House after the general debate on the bill has been concluded and reading for amendment has begun in the Committee of the Whole. 115 CONG. REC. 13246, 91st Cong. 1st Sess., May 21, 1969 [H. Res. 414, waiving points of order against title IV, H.R. 11400].

§ 7.3 In construing a resolution waiving certain points of order, the Chairman of the Committee of the Whole may examine debate on the resolution in the House in determining the scope of the waiver. 119 CONG. REC. 20981-83, 93d Cong. 1st Sess., June 22, 1973 [H.R. 8825].

§ 7.4 Where a resolution providing for the consideration of a bill specifies that "all points of order against said bill are hereby waived," the waiver is applicable only to the text of the bill and not to amendments. 114 CONG. REC. 11305, 90th Cong. 2d Sess., May 1, 1968 [H. Res. 1150].

§ 7.5 Where a resolution providing for the consideration of a bill makes in order (notwithstanding the rule of germaneness) the text of a specific bill as an amendment, points of order are considered as waived only against the complete text of the proposed bill and not against portions thereof. 115 CONG. REC. 38123, 38130, 91st Cong. 1st Sess., Dec. 10, 1969 [H. Res. 714, providing for consideration of H.R. 4249].

§ 8. Appeals

§ 8.1 A ruling of the Chair may be challenged through an appeal. Indeed, the right of appeal from decisions of the Speaker on questions of order is provided for by the House rules (Rule I clause 4). An appeal may also be taken from the ruling of the Chairman of the Committee of the Whole on a point of order. 123 CONG. REC. 17714, 95th Cong. 1st Sess., June 7, 1977 [H.R. 10]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 16, 1979 [S. 869], where a ruling of the Chairman of the Committee of the Whole was sustained on appeal on a division vote. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 12, 1979 [H.R. 2061].

§ 8.2 While under Rule I clause 4 the Speaker must decide all questions of order, subject to an appeal by any Member, the Speaker's refusal under Rule XV clause 6(e) to entertain a point of order of no quorum when a pending question has not been put to a vote is not subject to an appeal, since that rule contains an absolute and unambiguous prohibition on making or entertaining such a point of order; to allow an appeal in such a case would permit a direct change in the rule itself, rather than in the Chair's ruling. 123 CONG. REC. 29594, 95th Cong. 1st Sess., Sept. 16, 1977. *Note:* In this situation an appeal does not lie because the operative rule allows the Chair no discretionary or interpretative authority. Nor will an appeal lie from a decision which is totally *within* the discretionary authority of the Chair, i.e., rulings on questions involving dilatoriness, recognition in debate, or vote counts. The Chair's count of Members standing to support a demand for a recorded vote under Rule I clause 5 is not subject to challenge by appeal. 122 CONG. REC. 20391, 94th Cong. 2d Sess., June 24, 1976 [H.R. 14232]. And no appeal lies from the Speaker's count of the House to determine whether one-fifth of those Members present have risen to order the yeas and nays (124 CONG. REC. 28949, 95th Cong. 2d Sess., Sept. 12, 1978 [H.R. 12578]), or from the count of the Chair of Members standing to object to a request that a committee have permission to sit under the five-minute rule. 124 CONG. REC. 28983, 95th Cong. 2d Sess., Sept. 12, 1978. In one instance in the 96th Congress, the Chair entertained an appeal from his ruling that no point of order lies against the Chair's refusal to entertain unanimous-consent requests to address the House before legislative business (although the point of order ad-

dressed a question of recognition, ordinarily not subject to appeal). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 25, 1980. The Speaker pro tempore also ruled that the point of order was not timely but the appeal should not have been allowed, even on that ground. The Chair's ruling on timeliness is also not appealable.

§ 8.3 The question of the constitutionality of a provision in a pending measure is a matter for the House to determine by its vote on the merits, rather than by voting on a possible appeal from the Chair's decision declining to rule on that constitutional issue. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess., May 10, 1973 [H.R. 7447].

§ 8.4 An appeal from a decision of the Speaker is subject to the motion to lay on the table. 117 CONG. REC. 23810, 92d Cong. 1st Sess., July 7, 1971 [H. Res. 491]. Thus, an appeal from the Speaker's decision—that a resolution did not present a question of the privileges of the House—has been laid on the table. 120 CONG. REC. 21596-98, 93d Cong. 2d Sess., June 27, 1974. And the House has tabled a motion to reconsider the vote whereby an appeal from a decision of the Chair was laid on the table. 114 CONG. REC. 30214-16, 90th Cong. 2d Sess., Oct. 8, 1968 [Calendar Day of Oct. 9, 1968]. An appeal in Committee of the Whole may not be laid on the table, since that motion does not lie in that Committee. See Ch. 23 § 4, supra.

§ 8.5 An appeal may be taken from a decision of the Speaker and then withdrawn, before the question is put on a motion to lay the appeal on the table. 113 CONG. REC. 34032, 90th Cong. 1st Sess., Nov. 28, 1967 [H. Res. 985].

B. PARLIAMENTARY INQUIRIES

§ 9. In General

§ 9.1 Recognition of Members for the purpose of propounding parliamentary inquiries is within the discretion of the Chair. 114 CONG. REC. 26453-56, 90th Cong. 2d Sess., Sept. 11, 1968; 114 CONG. REC. 30214, 30216, 90th Cong. 2d Sess., Oct. 9, 1968. The Chair may decline to entertain an inquiry not relevant to the pending question. 118 CONG. REC. 20339, 92d Cong. 2d Sess., June 8, 1972.

§ 9.2 Parliamentary inquiries concerning the anticipated order of business may be entertained by the Chair. 114 CONG. REC. 26453-56, 90th Cong. 2d Sess., Sept. 11, 1968. The status of the Clerk's progress in reading a document is also a proper subject for a parliamentary inquiry. 114 CONG. REC. 30100, 90th Cong. 2d Sess., Oct. 8, 1968. And the Speaker may respond to parliamentary inquiries concerning his authority as presiding officer. 123 CONG. REC. 4503, 4504, 95th Cong. 1st Sess., Feb. 16, 1977. But the construction or meaning of an amendment is not a proper subject for a parliamentary inquiry as such matters are for the House and not the Chair to determine. 112 CONG. REC. 26205, 89th Cong. 2d Sess., Oct. 12, 1966 [H.R. 51]; 124 CONG. REC. 23625, 95th Cong. 2d Sess., Aug. 1, 1978 [H.R. 12514]. And the Chair does not respond to hypothetical questions raised under the guise of a parliamentary inquiry. 111 CONG. REC. 6114, 89th Cong. 1st Sess., Mar. 26, 1965 [H.R. 2362]; 113 CONG. REC. 4997, 90th Cong. 1st Sess., Mar. 1, 1967 [H. Res. 278].

§ 9.3 Inquiries concerning the parliamentary situation on the floor are properly directed to the Chair, and it is not in order for a Member to request that the notes of the official reporters be read to ascertain what motions have been put by the Chair. 114 CONG. REC. 14375

et seq., 90th Cong. 2d Sess., May 22, 1968 [H. Rept. No. 1397].

§ 9.4 A Member recognized to propound a parliamentary inquiry may not, having secured the floor for such limited purpose, offer an amendment. 110 CONG. REC. 5140, 88th Cong. 2d Sess., Mar. 12, 1964 [H.R. 8986].

§ 9.5 A timely point of order takes precedence over a parliamentary inquiry, and the reservation of a parliamentary inquiry gives no priority for that purpose, since recognition is in the discretion of the Chair. 123 CONG. REC. 17714, 95th Cong. 1st Sess., June 7, 1977.

§ 9.6 The Chair may delay his response to a parliamentary inquiry pending examination of relevant House precedents. 124 CONG. REC. 37016, 95th Cong. 2d Sess., Oct. 13, 1978 [H. Res. 1416].

§ 10. When in Order

§ 10.1 A Member may not be taken from the floor by a parliamentary inquiry. 106 CONG. REC. 11267, 86th Cong. 2d Sess., May 26, 1960; 111 CONG. REC. 17931, 89th Cong. 1st Sess., July 22, 1965 [H.R. 8283]. He may not be interrupted by a parliamentary inquiry without his consent, and if the Member who has the floor refuses to yield and demands the regular order the Chair will not recognize another Member to propound the inquiry. 121 CONG. REC. 21628, 94th Cong. 1st Sess., July 8, 1975 [H.R. 49]. But if the Member having the floor does yield for a parliamentary inquiry, the time consumed by the inquiry and reply is taken out of his time. 106 CONG. REC. 11267, 86th Cong. 2d Sess., May 26, 1960; 110 CONG. REC. 1998, 88th Cong. 2d Sess., Feb. 5, 1964 [H.R. 7152].

§ 10.2 The Chair may refuse to entertain a parliamentary inquiry during a teller vote (113 CONG. REC. 17748, 90th Cong. 1st Sess., June 28, 1967 [H.R. 10340]), and may decline to recognize for that purpose during a roll call vote. 107 CONG. REC. 18256, 87th Cong. 1st Sess., Sept. 6, 1961. However, the Chair may in his discretion entertain an inquiry relating to the conduct of the call. 124 CONG. REC. 6840, 95th Cong. 2d Sess., Mar. 14, 1978. Compare 108 CONG. REC. 23423-34, 87th Cong. 2d Sess., Oct. 12, 1962 (where following completion of the first call of the roll, the Speaker responded to a parliamentary inquiry and clarified the nature of the question on which the House was then voting). And while a parliamentary inquiry may not interrupt a division, such inquiries are entertained until the Chair asks those in favor of the proposition to rise. 112 CONG. REC. 24455-57, 89th Cong. 2d Sess., Sept. 29, 1966 [H.R. 15111].

§ 10.3 The Chair does not respond to a parliamentary inquiry concerning the propriety of an amendment until the amendment is offered. 113 CONG. REC. 17754, 90th Cong. 1st Sess., June 28, 1967 [H.R. 10340], where the Chair indicated, in response to a parliamentary inquiry, that if a point of order were raised at the proper time, an amendment proposing to amend an amendment already agreed to would be subject to a point of order.

§ 10.4 The Speaker may entertain a parliamentary inquiry after the yeas and nays are ordered, but debate on the pending question is not in order. 113 CONG. REC. 29933, 29942-44, 90th Cong. 1st Sess., Oct. 25, 1967 [H.R. 11641].

§ 10.5 The Speaker may entertain a parliamentary inquiry (relating to the order of business) prior to the approval of the Journal. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Feb. 28, 1979.

Chapter 32

House-Senate Relations

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A. INTRODUCTORY

§ 1. In General; Messages Between the Houses

§ 1.1 *Note:* Messages between the House and Senate are used for a variety of legislative purposes: (1) to indicate the final disposition by one House of a bill originating in the other; (2) to convey the official papers accompanying bills from one House to the other; (3) to transmit the action of one House on an amendment of the other; (4) to request the return of bills or amendments; (5) to convey information relating to committees of conference and reports relating thereto. The refusal of one House to receive a message from the other is a breach of the practice of comity between the two Houses. See 116 CONG. REC. 36675, 91st Cong. 2d Sess., Oct. 14, 1970. Whereas it was formerly the custom to transmit messages only when both Houses were sitting, the present practice permits the reception of messages regardless of whether the other House is in session. 8 Cannon's Precedents § 3338. A new rule of the House now permits the reception of messages from the Senate notwithstanding the adjournment of the House. Rule III clause 5.

§ 1.2 The Chair does not take public notice of the proceedings of the Senate unless formally brought to the attention of the House by message from the Senate. 115 CONG. REC. 19095, 91st Cong. 1st Sess., July 10, 1969. Messages constitute the sole source of official information as to action taken by the other House and may not be supplemented or altered by the receiving House. 8 Cannon's Precedents § 3342. The Speaker may decline to discuss the rational for the Senate's message and take official notice only of its contents. 115 CONG. REC. 19095, 91st Cong. 1st Sess., July 10, 1969.

§ 1.3 The reception of a message from the Senate is a highly privileged matter and may interrupt the consideration of a bill, even though the previous question has been ordered thereon. 107 CONG. REC. 7172, 87th Cong. 1st Sess., May 3, 1961. Such a message may be received in the absence of a quorum and pending a motion for a call of the House. 114 CONG. REC. 30091, 90th Cong. 2d Sess., Oct. 8, 1968; 124 CONG. REC. 38711, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 10979]. The Speaker may receive the message even before the approval of the Journal. 111 CONG. REC. 23607, 89th Cong. 1st Sess., Sept. 13, 1965.

§ 1.4 Where a message from the Senate is received during a call of the House, and the House adjourns when a quorum fails to appear on the call, the message is held at the Speaker's table until it next convenes. 114 CONG. REC. 30816, 90th Cong. 2d Sess., Oct. 11, 1968.

§ 1.5 A message from the Senate may not be received when the House is in the Committee of the Whole (121 CONG. REC. 32551, 94th Cong. 1st Sess., Oct. 9, 1975 [H. Con. Res. 424]), but the Committee may rise informally to permit the reception of such messages. 107 CONG. REC. 4563, 87th Cong. 1st Sess., Mar. 22, 1961.

§ 1.6 The Committee of the Whole may rise formally to permit the House to receive a message from the Senate and to consider Senate amendments to a concurrent resolution providing for an adjournment. 120 CONG. REC. 16150, 16151, 93d Cong. 2d Sess., May 22, 1974 [H. Con. Res. 501]; 121 CONG. REC. 32551, 94th Cong. 1st Sess., Oct. 9, 1975 [H. Con. Res. 424].

§ 2. Messages Relating to Bills

§ 2.1 At the beginning of a session of Congress, bills are messaged to the Senate that were passed by the House in the closing hours of a previous session of that Congress and not

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messaged to the Senate before adjournment *sine die*. 106 CONG. REC. 76, 86th Cong. 2d Sess., Jan. 7, 1960.

§ 2.2 A message from the Senate requesting that the House return a bill must be presented to the House for consideration. 105 CONG. REC. 19715, 86th Cong. 1st Sess., Sept. 14, 1959. If the House orders the bill returned to the Senate, it notifies the Senate of this fact by a message accompanying the returned bill. 111 CONG. REC. 11188, 89th Cong. 1st Sess., May 21, 1965 [S. 1734].

§ 2.3 A request of the Senate for the return of a bill is treated as privileged in the House (105 CONG. REC. 19715, 86th Cong. 1st. Sess., Sept. 14, 1959 [H.R. 8392]), and may be disposed of by unanimous consent or by motion. 116 CONG. REC. 30850, 91st Cong. 2d Sess., Sept. 9, 1970 [H.R. 16968]; 119 CONG. REC. 23027, 93d Cong. 1st Sess. July 10, 1973; 120 CONG. REC. 11881, 93d Cong. 2d Sess., Apr. 25, 1974. A request of the Senate for the return of a bill being treated as privileged, the Chair immediately puts the question on the request without debate. 116 CONG. REC. 43776, 91st Cong. 2d Sess., Dec. 29, 1970 [H.R. 14984]. However, debate may, by unanimous consent, proceed under a reservation of the right to object to agreeing to the Senate's request. 123 CONG. REC. 26538, 95th Cong. 1st Sess., Aug. 3, 1977 [H. Con. Res. 317].

A request of the Senate for the return of a House bill is frequently handled by unanimous consent. 106 CONG. REC. 9853, 86th Cong. 2d Sess., May 10, 1960; 107 CONG. REC. 20822, 87th Cong. 1st Sess., Sept. 22, 1961; 109 CONG. REC. 21122, 88th Cong. 1st Sess., Nov. 6, 1963. The House has agreed to the Senate's request to return a concurrent resolution with accompanying papers. 107 CONG. REC. 19540, 87th Cong. 1st Sess., Sept. 14, 1961; 121 CONG. REC. 14324, 94th Cong. 1st Sess., May 14, 1975 [H. Con. Res. 218]. The House may by unanimous consent agree to a request of the Senate for the return of a Senate bill even where the bill has been referred to a House committee. 106 CONG. REC. 1022, 86th Cong. 2d Sess., Jan. 21, 1960; 115 CONG. REC. 19095, 91st Cong. 1st Sess., July 10, 1969.

§ 2.4 The House has by unanimous consent requested the Senate to return to the House a massage to the Senate containing erroneous information. 91st Cong. 1st Sess., Dec. 19, 1969.

§ 2.5 The House may by unanimous consent rescind or retract the action whereby it has agreed to the Senate's request for the return of certain papers. 121 CONG. REC. 14328, 94th Cong. 1st Sess., May 14, 1975 [H. Con. Res. 218]. Similar action has been taken by the Senate. 123 CONG. REC. 36129, 95th Cong. 1st Sess., Oct. 31, 1977 [S. 1528]. *Note:* The Senate retracted its request for return of certain papers to allow the House to amend a Senate amendment.

§ 3. House Action on Senate Bills

§ 3.1 As a matter of comity and to expedite reconciliation of differences between the two Houses, where both Houses have passed similar measures on a subject it is customary for the second House which acts to amend and pass the measure that was first passed by and messaged from the other House. 124 CONG. REC. 13244, 95th Cong. 2d Sess., May 10, 1978 [H. Con. Res. 559; S. Con. Res. 80]. In one instance, on the day following passage of a House bill, a committee was discharged, by unanimous consent, from further consideration of a similar Senate bill which had been messaged to the House prior to the reporting of the House bill; the Senate bill was then considered, amended to conform to the provisions of the House, passed, and the proceedings whereby the House bill was passed were vacated by unanimous consent (the House bill not having been messaged to the Senate). 107 CONG. REC. 8367, 87th Cong. 1st Sess., May 18, 1961.

§ 3.2 *Note:* Absent a special rule, a Senate bill cannot be taken from the Speaker's table for consideration in the House by motion unless it is similar to a House bill previously reported which is already on the House Calendar, and then only if the Senate bill does not require consideration in the Committee of the Whole. 121 CONG. REC. 36252, 36276, 94th Cong. 1st Sess., July 31, 1975. The motion to take up the similar Senate bill must be authorized by the committee which reported the House bill (see Rule XXIV clause 2). However, the House may adopt a special rule (a resolution reported from the Committee on Rules) which provides that a Senate bill be taken from the Speaker's table for consideration in the House. 121 CONG. REC. 36638, 94th Cong. 1st Sess., Nov. 14, 1975 [H. Res. 866]. Consideration in the House may also be obtained by unanimous consent. 121 CONG. REC. 9520, 94th Cong. 1st Sess., Apr. 9, 1975 [S. 1310]. A Senate bill at the Speaker's table which requires consideration in the Committee of the Whole may be called up for consideration in the House only by unanimous consent or pursuant to a special rule, and not by motion (Rule XXIII clause 3, Rule XXIV clause 2). 124 CONG. REC. 4480, 95th Cong. 2d Sess., Feb. 23, 1978 [H.R. 9179]. See 123 CONG. REC. 38729, 95th Cong. 1st Sess., Dec. 7, 1977 [H. Res. 916], for a resolution providing for consideration in the House of a Senate bill normally considered in the Committee of the Whole.

§ 3.3 During debate on a conference report, the House by unanimous consent has considered a Senate bill which was identical to a provision in the conference report. 118 CONG. REC. 37115 et seq., 92 Cong. 2d Sess., Oct. 18, 1972.

§ 3.4 By unanimous consent, the House considered a Senate bill under the terms of a resolution adopted for consideration of a similar House bill. 105 CONG. REC. 4005, 86th Cong. 1st Sess., Mar. 12, 1959 [S. 50]. And where a special rule adopted by the House provided that the House consider a Senate measure following passage of a similar House measure whose consideration was provided for by the special rule, the House by unanimous consent considered another similar Senate measure which had been messaged to the House in lieu thereof. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Oct. 30, 1979 [S. 1905].

§ 3.5 Where the Senate had passed a bill dealing with two subjects within the jurisdiction of one committee, and the House had then passed separate bills on each subject, the House by a special rule amended the Senate bill with the combined texts of both House-passed bills. 120 CONG. REC. 29654, 93d Cong. 2d Sess., Aug. 21, 1974 [H. Res. 1311, providing for consideration of H.R. 16168, Department of State authorization]. Similarly, in the 95th Congress, where it was anticipated that the House and Senate would each pass two separate bills generally addressing the same subjects but containing certain provisions not included in the "companion" measure of the other House, the Committee on Rules reported a special rule providing that after passage of the second House bill, both Senate-passed bills would be taken from the Speaker's table and separately amended by splitting provisions in one House-passed bill to correspond with Senate provisions, in order to permit orderly conferences on the two Senate bills and House modifications thereof. 124 CONG. REC. 34092, 95th Cong. 2d Sess., Oct. 6, 1978 [H. Res. 1408].

§ 3.6 The House agreed to a unanimous-consent request to take a Senate bill from the Speaker's table and to move to strike out all after the enacting clause and insert in lieu thereof the text of three House-passed bills as one amendment in the nature of a substitute.

122 CONG. REC. 28463, 28464, 94th Cong. 2d Sess., Aug. 31, 1976 [S. 2657].

§ 3.7 By unanimous consent, the House agreed to consider a private Senate bill reported from the Committee on the Judiciary with a nongermane amendment in the nature of a substitute converting it into a public bill. 124 CONG. REC. 38217, 95th Cong. 2d Sess., Oct. 14, 1978 [S. 2247].

§ 4. House Action on Senate Resolutions

§ 4.1 By unanimous consent a Senate joint resolution was taken from the Speaker's table, the preamble and all after the resolving clause stricken; the preamble and provisions of a similar House joint resolution were then inserted by amendment. 110 CONG. REC. 145, 88th Cong. 2d Sess., Jan. 8, 1964 [H.J. Res. 871].

§ 4.2 By unanimous consent, the House considered and agreed to a Senate concurrent resolution authorizing the Clerk, in the enrollment of a House bill, to delete a Senate amendment thereto. 117 CONG. REC. 33715, 92d Cong. 1st Sess., Sept. 28, 1971 [S. Con. Res. 42]. *Note:* The Senate had adopted several numbered amendments to the House bill, and the House had agreed to Senate amendment number 5. The Senate then decided to recede from that amendment, which it could not do except by concurrent action of the two Houses in correcting the enrollment of the bill.

§ 4.3 Where a Senate concurrent resolution is considered in the House by unanimous consent following adoption of a similar House concurrent resolution, the text of the Senate resolution is amended and agreed to prior to consideration of the amendment to the preamble. 120 CONG. REC. 17220, 17221, 93d Cong. 2d Sess., June 3, 1974 [S. Con. Res. 81].

§ 5. House Action on Senate Amendments

§ 5.1 *Note:* The House rules make procedural distinctions between Senate amendments which may be considered in the House and Senate amendments which must be considered in Committee of the Whole; and they also distinguish between the consideration of amendments before and after the stage of disagreement. (See also *Cannon's Procedure* p. 452, noting the general rule that in the disposition of business on the Speaker's table, House bills with Senate amendments which require consideration in Committee of the Whole may not be called up as privileged for immediate consideration but may be referred directly to a standing committee, and on being reported therefrom referred to the Committee of the Whole.)

Any amendment of the Senate to a House bill is subject to the point of order that it must first be considered in the Committee of the Whole if, originating in the House, it would be subject to that point. However, a motion to disagree with an amendment of the Senate to a House bill or resolution and to request or agree to a conference with the Senate, or a motion to insist on a House amendment to a Senate bill or resolution and request or agree to a conference with the Senate, is always in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made by direction of the committee having jurisdiction of the subject matter of the bill or resolution. Rule XX clause 1.

The stage of disagreement not having been reached on Senate amendments requiring consideration in the Committee of the Whole, motions in the House to dispose of the amendments are not privileged and require unanimous consent unless other action is made in order by special rule or by the exception to Rule XX clause 1, relating to motions to ask or agree to a conference. 123 CONG. REC.

38721, 95th Cong. 1st Sess., Dec. 7, 1977 [H.J. Res. 622].

Rule XX clause 1 applies only before the stage of disagreement has been reached on the Senate amendment; it is too late to raise a point of order that Senate amendments should have been considered in Committee of the Whole after the House has disagreed thereto and the amendments are reported from conference. 112 CONG. REC. 28240-45, 89th Cong. 2d Sess., Oct. 20, 1966; 121 CONG. REC. 38714, 94th Cong. 1st Sess., Dec. 4, 1975.

House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine. Rule XXIV clause 2. Senate amendments to a House amendment in the nature of a substitute for a Senate bill which do not require consideration in a Committee of the Whole may be called up in the House and be at once disposed of as the House may determine pursuant to this rule. 106 CONG. REC. 18357, 86th Cong. 2d Sess., Aug. 30, 1960.

§ 5.2 *Note:* While a privileged motion to go to conference under clause 1 Rule XX is pending, preferential motions to concur or to concur with amendment are not in order (the stage of disagreement not having been reached). A similar situation pertains where the House has adopted a special order providing for the consideration of a motion to concur in Senate amendments which require consideration in the Committee of the Whole before the stage of disagreement has been reached. Only the motion to concur, made in order by the special rule, is in order, and other motions to dispose of the Senate amendments may not be offered as privileged pending or after rejection of that motion. The rejection of such a motion does not result in disagreement to that amendment or permit disposition of that amendment by other motions (the stage of disagreement not having been reached). 123 CONG. REC. 38724, 95th Cong. 1st Sess., Dec. 7, 1977 [H.J. Res. 662].

§ 5.3 The House may, by unanimous consent, take from the Speaker's table a House bill with Senate amendments and consider those amendments in the House. 109 CONG. REC. 25365, 88th Cong. 1st Sess., Dec. 20, 1963 [H.R. 5945]; 111 CONG. REC. 27412, 89th Cong. 1st Sess., Oct. 19, 1965 [H.R. 168]. It may make such consideration in order on a future day or time. 124 CONG. REC. p. ....., 95th Cong. 2d Sess., Oct. 11, 1978 [H.J. Res. 1139]. This prodedure may be invoked to permit the House to consider Senate amendments requiring consideration in Committee of the Whole. 106 CONG. REC. 18920, 86th Cong. 2d Sess., Sept. 1, 1960; 107 CONG. REC. 14050, 87th Cong. 1st Sess., July 31, 1961; 108 CONG. REC. 15854, 15856, 87th Cong. 2d Sess., Aug. 8, 1962 [H.R. 11151]. The House has agreed to a unanimous-consent request to take from the Speaker's table a House bill with a Senate amendment thereto, and concur in the Senate amendment with an amendment consisting of the text of several House-passed bills. 123 CONG. REC. 14390, 14391, 14394, 14397, 95th Cong. 1st Sess., May 11, 1977 [H.R. 4975]. In one instance, by separate unanimous-consent requests, the House took from the Speaker's table four House-passed private bills with germane and nongermane Senate amendments, concurred in the germane Senate amendments and amended the nongermane amendments with an amendment incorporating in each instance the entire text of a title of another House-passed bill relating to all the issues which the Senate had separately addressed in its amendments to each private bill. 123 CONG. REC. 33687, 33688, 95th Cong. 1st Sess., Oct. 13, 1977 [H.R. 8444].

§ 5.4 The Committee on Rules has jurisdiction over resolutions providing for the disposition of Senate amendments. 114 CONG. REC. 15499, 90th Cong. 2d Sess., May 29, 1968. Thus, the Committee on Rules may report out a special rule taking a House bill with Senate amendments (requiring consideration in the

Committee of the Whole) from the Speaker's table and sending it to the legislative committee having jurisdiction thereof. 107 CONG. REC. 21475, 87th Cong. 1st Sess., Sept. 26, 1961. Or the special rule may make in order the consideration of such amendments in the House. 123 CONG. REC. 38780-86, 95th Cong. 1st Sess., Dec. 7, 1977 [H. Res. 929; H. Res. 930]. See also 124 CONG. REC. 38605, 95th Cong. 2d Sess., Oct. 14, 1978 [H. Res. 1446] and 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Apr. 2, 1979 [H. Res. 183], for special rules taking from the Speaker's table a House bill with a Senate amendment and agreeing to the Senate amendment. A special rule may provide for the consideration in the House of a motion to take from the Speaker's table a House measure with Senate amendments thereto and concur in the Senate amendments without intervening motion (123 CONG. REC. 38721, 95th Cong. 1st Sess., Dec. 7, 1977 [H. Res. 928]) or for disagreeing to the amendments and for messaging the House's action to the Senate without intervening motion. 119 CONG. REC. 38675, 93d Cong. 1st Sess., Nov. 29, 1973 [H. Res. 721]. In one instance, where the Senate added nongermane amendments which where the subject of another bill reported in the House, the special rule providing for consideration of the reported bill also provided that, after passage, the Senate amendments to the other House bill would be disposed of by amendment so as to commit the matters contained in both House-passed bills to one conference with the Senate. 124 CONG. REC. 32664, 95th Cong. 2d Sess., Sept. 29, 1978 [H. Res. 1325]. If the previous question is voted down on a resolution providing for consideration of the Senate amendments, the resolution is open to amendment. 116 CONG. REC. 20159, 20198-200, 91st Cong. 2d Sess., June 17, 1970 [H. Res. 914].

§ 5.5 Should a resolution providing for concurring in Senate amendments to a House bill be rejected, the bill and amendments remain on the Speaker's table for further action by the House. 116 CONG. REC. 20159, 20198-200, 91st Cong. 2d Sess., June 17, 1970 [H. Res. 914]. Likewise, if objection is made to a unanimous-consent request to take from the Speaker's table a House bill with Senate amendments, and to disagree to the amendments and agree to a conference, the Speaker is not required to send the bill and amendments directly to the legislative committee having jurisdiction thereof, but may hold the bill on the table until the Committee on Rules has an opportunity to act or until the House takes other action. 107 CONG. REC. 5288, 87th Cong. 1st Sess., Mar. 29, 1961 [H.R. 5463]; 107 CONG. REC. 21475, 87th Cong. 1st Sess., Sept. 26 [Legislative Day, Sept. 25], 1961 [H.R. 9169].

§ 5.6 The House may agree to a resolution, offered under suspension of the rules, taking a House bill with one or more Senate amendments from the Speaker's table and concurring in, disagreeing to, or making some other disposition of, the amendment(s). 119 CONG. REC. 42917, 42918, 93d Cong. 1st Sess., Dec. 20, 1973 [H. Res. 754]; 121 CONG. REC. 41876, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Res. 944]. See also 118 CONG. REC. 36408, 92d Cong. 2d Sess., Oct. 14, 1972 [H. Res. 1165]. Thus, the Speaker may recognize the chairman of a committee to move to suspend the rules and agree to a resolution taking a House bill with a Senate amendment from the Speaker's table and agreeing to the Senate amendment. 108 CONG. REC. 17671, 17681, 87th Cong. 2d Sess., Aug. 27, 1962 [H. Res. 769]. (*Note:* The resolution was introduced by the chairman of the subcommittee when he was recognized to move to suspend the rules and agree to the amendment. Prior introduction would, under the rules, have required reference to the Committee on Rules.)

The resolution may provide for taking a House bill with a Senate amendment from the Speaker's table and agreeing to the Senate amendment with a designated amendment—which may be stated in the text of the resolu-

tion. 118 CONG. REC. 36477-83, 92d Cong. 2d Sess., Oct. 14, 1972 [H. Res. 1166]; 119 CONG. REC. 42883, 42884, 93d Cong. 1st Sess., Dec. 20, 1973; 123 CONG. REC. 31040, 95th Cong. 1st Sess., Sept. 27, 1977 [H. Res. 782]. *Note:* The resolution being drafted to include the text of the House amendment, the Member need not offer a motion from the floor spelling out the text of that amendment.

The suspension procedure in such cases does not always require a resolution. The House has agreed to a motion to suspend the rules and take from the Speaker's table a Senate bill with a Senate amendment to House amendments thereto, and to concur in the Senate amendment. 120 CONG. REC. 13085, 93d Cong. 2d Sess., May 6, 1974 [S. 1125]. See also 123 CONG. REC. 34086, 34087, 34091, 95th Cong. 1st Sess., Oct. 18, 1977 [H.R. 7769], where the House concurred simply by adopting a motion to suspend, and 123 CONG. REC. 11108, 95th Cong. 1st Sess., Apr. 19, 1977 [H. Res. 491], where the House by suspension and the adoption of a resolution concurred in a Senate amendment to a House amendment to a Senate bill and receded from a House amendment.

§ 5.7 When the stage of disagreement has been reached on a bill with amendments, motions to dispose of the amendments are privileged in the House. *House Rules and Manual* § 828a (96th Cong.). Thus, the Senate having laid on the table a conference report and having messaged its insistence on its amendments to a House bill, a motion to dispose of the Senate amendments is in order when the message is received by the House. 120 CONG. REC. 23348, 23349, 93d Cong. 2d Sess., July 16, 1974.

§ 5.8 Where the Senate had amended a House joint resolution appropriating funds by transfer, by merely reducing the amount of the appropriation, and a motion in the House to dispose of the Senate amendment prior to the stage of disagreement would be privileged, the Committee on Rules reported a special order providing for immediate consideration in the House of a motion to concur without intervening motion, thereby precluding a preferential motion to amend and a motion to commit after the previous question was ordered. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 25, 1980 [H. Res. 718].

§ 6. — Degree of Amendment

§ 6.1 As pointed out in an earlier chapter, an amendment to an amendment to an amendment is in the third degree and not in order (Ch. 27 § 6, supra). This rule is applicable to amendments between the Houses. Thus, where a Senate amendment to a House bill had been reported from conference in disagreement and the Senate had amended a further House amendment thereto, motions in the House to agree or disagree to the Senate amendment to the House amendment are in order, but a motion to concur with a further amendment would be in the third degree and not in order. 119 CONG. REC. 34699, 34704, 93d Cong. 1st Sess., Oct. 18, 1973 [H.R. 9639]. Likewise, where there is pending in the House a motion to amend a Senate amendment to a House amendment to a Senate bill, and the House adopts the motion, the Senate may then either concur in or disagree to the House amendment, but a further Senate amendment would be in the third degree. See 121 CONG. REC. 40711, 40712, 94th Cong. 1st Sess., Dec. 15, 1975. For further discussion of the degree of amendment between the Houses, see *House Rules and Manual* § 529 (96th Cong.).

§ 6.2 In one instance, the House, by unanimous consent, agreed to an amendment (in the third degree) to a Senate amendment to a House amendment to a Senate amendment to a House bill. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 19, 1979 [H.R. 4998].

B. Motions and Orders Disposing of Amendments Between the Houses

§ 7. In General; Precedence

§ 7.1 When the stage of disagreement is reached, that motion which tends most quickly to bring the Houses into agreement is preferential. 109 CONG. REC. 23950, 23952, 88th Cong. 1st Sess., Dec. 10, 1963; 111 CONG. REC. 8861, 8866, 89th Cong. 1st Sess., Apr. 29, 1965; 113 CONG. REC. 31878, 31880, 90th Cong. 1st Sess., Nov. 9, 1967. Before the stage of disagreement is reached, the rule is otherwise. Thus, where Senate amendments are taken up in the House for the first time (before the stage of disagreement has been reached on those amendments), the motion to concur with an amendment takes precedence over the motion to concur; but where the stage of disagreement between the two Houses has been reached, the precedence of the motions is reversed and the motion to recede and concur then takes precedence of a motion to recede and concur with an amendment, since such a motion most promptly tends to bring the two Houses together. 116 CONG. REC. 44116, 44123, 91st Cong. 2d Sess., Dec. 30, 1970 [H.R. 17867]. The motion to recede and concur likewise takes precedence at that stage over the motion to insist on disagreement. 113 CONG. REC. 25201, 25211, 90th Cong. 1st Sess., Sept. 12, 1967 [H.R. 10738]; 113 CONG. REC. 29837, 29842, 90th Cong. 1st Sess., Oct. 24, 1967 [H.R. 9960]; 118 CONG. REC. 22959, 22974, 92d Cong. 2d Sess., June 28, 1972 [H.R. 13955]; 119 CONG. REC. 21171-73, 93d Cong. 1st Sess., June 25, 1973 [H.R. 7447]. At this stage, too, a motion that the House concur in a Senate amendment to a House amendment to an amendment of the Senate takes precedence over a motion to disagree to the Senate's amendment (113 CONG. REC. 31878-81, 90th Cong. 1st Sess., Nov. 9, 1967) or over a pending motion to disagree and request a conference. 122 CONG. REC. 1036, 94th Cong. 2d Sess., Jan. 27, 1976 [H.R. 9861]; 123 CONG. REC. 33689, 95th Cong. 1st Sess., Oct. 13, 1977 [H.R. 7555]. A motion to recede and concur in a Senate amendment would take precedence over the motion to adhere (107 CONG. REC. 13079-84, 87th Cong. 1st Sess., July 20, 1961 [H.R. 7577]), and a motion to recede and concur in a Senate amendment with an amendment would take precedence over a motion to insist on disagreement. 124 CONG. REC. 36395, 95th Cong. 2d Sess., Oct. 12, 1978 [H.R. 12929].

§ 7.2 *Note:* Once the stage of disagreement has been reached, motions in the House to resolve the matter in disagreement are privileged and do not require unanimous consent for their consideration. 113 CONG. REC. 31878, 31880, 90th Cong. 1st Sess., Nov. 9, 1967. 122 CONG. REC. 30872, 94th Cong. 2d Sess., Sept. 16, 1976 [H.R. 8532]. Thus, the House having disagreed to a Senate amendment and the Senate having insisted thereon, the stage of disagreement is reached when the Senate action is messaged to the House; and motions to dispose of the matter in disagreement are privileged for consideration in the House. 123 CONG. REC. 38013, 95th Cong. 1st Sess., Nov. 29, 1977 [H.R. 9794]. Such motions are privileged for consideration in the House even where the Senate has receded from an amendment to which the House has disagreed and concurred with a further amendment which is before the House for the first time. 123 CONG. REC. 38033, 95th Cong. 1st Sess., Nov. 29, 1977 [H.R. 7555]. Once the stage of disagreement has been reached between the two Houses on an amendment to a House bill, motions in the house to dispose of the matter at subsequent permissible stages of amendment remain privileged. 122 CONG. REC. 30872, 94th Cong. 2d Sess., Sept. 16, 1976 [H.R. 8532]. See also 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 24, 1979 [H. Con. Res.

107], indicating that where the House has insisted on its disagreement to a Senate amendment to a House proposition and has messaged that action to the Senate, and the Senate then recedes from its amendment and returns the bill or resolution to the House with a new Senate amendment, the House remains in the stage of disagreement and motions to dispose of the Senate amendment are privileged for consideration.

§ 7.3 Where the stage of disagreement has been reached between the two Houses and the previous question has been moved or ordered in the House on the most preferential motion available (to concur in a Senate amendment to a House amendment to a Senate amendment to a House bill—tending most quickly to bring the two Houses together), a motion of lesser precedence (to refer) or an amendment in the third degree may not be utilized under the guise of a motion to commit with or without instructions under Rule XVII clause 1. 122 CONG. REC. 30887, 94th Cong. 2d Sess., Sept. 16, 1976 [H.R. 8532].

§ 7.4 Where the House had previously adopted a special rule (H. Res. 1462) concurring in a Senate amendment to a House bill on the Speaker's table with an amendment, and then by unanimous consent insisted upon its amendment to the Senate amendment and requested a conference, the stage of disagreement between the two Houses was reached when the House communicated to the Senate its insistence upon its amendment and its request for a conference, even though the Senate subsequently disregarded the House request and further amended the House amendment without specifically disagreeing to the House amendment. 122 CONG. REC. 30872, 94th Cong. 2d Sess., Sept. 16, 1976 [H.R. 8532]. *Note:* In this instance, the Chair applied the principle that the stage of disagreement is reached when the House informs the Senate of disagreement. The House had taken the initial position by unanimous consent (it could also have done so by motion under Rule XX clause 1) in insisting upon its amendment and requesting a conference, and this was tantamount to disagreement. Thereafter, motions were privileged which tended to bring the two Houses together, and a motion to concur in the Senate amendment was held in order. A motion to further amend the Senate amendment to the House amendment to the Senate amendment to the House bill would have been in the third degree and not in order.

§ 7.5 After the stage of disagreement is reached, a motion to recede and concur is preferential to the motion to recede and concur with an amendment; but the question may be divided on the demand of any Member, and if the House recedes from its disagreement the motion to concur with an amendment then takes precedence over the motion to concur. 118 CONG. REC. 23718, 23725, 92d Cong. 2d Sess., June 30, 1972 [H.R. 15390]; 121 CONG. REC. 38717, 94th Cong. 1st Sess., Dec. 4, 1975; 123 CONG. REC. 26206, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 7555]. If a motion to recede and concur in a Senate amendment with a further amendment is divided, and the House votes to recede, the question then recurs on the motion to concur with an amendment. 122 CONG. REC. 31910, 94th Cong. 2d Sess., Sept. 22, 1976 [H.R. 14238]. Where both the motion to adhere and the more preferential motion to recede and concur are pending, and a division of the latter motion is demanded, the vote comes first on the motion to recede. 106 CONG. REC. 14074, 14081, 86th Cong. 2d Sess., June 23, 1960 [H.R. 10569]. In one instance, where a division of the question had been demanded on a preferential motion to recede from disagreement and concur in a Senate amendment (offered while a motion to insist on disagreement was pending), the Speaker indicated: (1) that if the motion to recede were agreed to, a motion to concur with a germane amendment would take precedence over the pending motion to

concur; but (2) that if the motion to recede were rejected, the vote would recur on the initial motion to insist on disagreement to the Senate amendment. 122 CONG. REC. 26783, 26792, 94th Cong. 2d Sess., Aug. 10, 1976 [H.R. 14232].

§ 7.6 A privileged motion to dispose of a Senate amendment in disagreement is subject to the motion to table. 124 CONG. REC. 4072, 95th Cong. 2d Sess., Feb. 22, 1978 [H.R. 9375]. Thus, a motion to recede and concur is subject to the motion to table (124 CONG. REC. 4072, 95th Cong. 2d Sess., Feb. 22, 1978 [H.R. 9375]), as is the motion to concur with an amendment (124 CONG. REC. 13921, 95th Cong. 2d Sess., May 16, 1978 [H.R. 9005]). A Senate amendment in disagreement is itself subject to a motion to lay on the table, and that motion takes precedence over a motion that the House insist on its disagreement thereto. A motion to table a Senate amendment to a House bill if agreed to carries the bill to the table. 124 CONG. REC. 32334, 95th Cong. 2d Sess., Sept. 28, 1978 [H.R. 3816]. *Note:* Laying on the table a motion to dispose of Senate amendments should be distinguished from laying on the table the Senate amendments themselves, which carries the bill to the table. Adoption of a motion to table a motion to recede and concur would represent final adverse disposition of that motion at that stage of the question, but would not dispose of the amendment or the bill, and other motions would still be available to dispose of the amendment.

§ 7.7 Where a Member has been recognized to offer and has debated a motion to concur in a Senate amendment with an amendment which only reinserts the original House text (and is therefore equivalent to a motion to insist on disagreement to the Senate amendment), a "preferential" motion to concur with an amendment modifying the language of the Senate amendment may be offered and voted on before the pending motion to insist on disagreement. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980 [H.R. 7542].

§ 7.8 Under the precedents, the Chair may examine the substance of a motion already pending and under debate to determine the order of voting thereon in relation to another motion, even though in form one of the motions is drafted to appear "preferential." 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980 [H.R. 7542].

§ 7.9 The House tabled an appeal from the ruling of the Speaker pro tempore that a proper motion to concur with an amendment in a Senate amendment reported from conference in disagreement (the House having receded) could be offered and voted on before a pending motion drafted as a motion to concur with an amendment, but which was in effect a motion to insist on disagreement to the Senate amendment, since simply reinserting the original House text without change. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 2, 1980 [H.R. 7542].

§ 8. Recognition to Offer; Control of the Floor

§ 8.1 Where amendments in disagreement are being considered seriatim following adoption of a conference report, the Chair recognizes the Member handling the report to offer motions to dispose of the amendments. 119 CONG. REC. 21171-80, 93d Cong. 1st Sess., June 25, 1973. And following the rejection of a conference report (the previous question having been ordered thereon), the manager of the report still has the prior right of recognition to offer a motion to dispose of amendments in disagreement; but while the initial motion is pending a preferential motion may be offered and is voted on first. 124 CONG. REC. 32334, 95th Cong. 2d Sess., Sept. 28, 1978 [H.R.

3816]. Where a motion to recede and concur in an amendment of the Senate in disagreement is divided, on the demand of a Member, the proponent of the initial motion still has control of the floor and has an hour at his disposal. 115 CONG. REC. 40902, 40914, 40921, 91st Cong. 1st Sess., Dec. 22, 1969. If the House votes to recede, a preferential motion to concur with an amendment is in order, but its proponent does not by offering his preferential motion deprive the Member previously recognized to offer the motion to recede and concur of the floor. The Member offering the motion to recede and concur still controls the debate under the hour rule. 118 CONG. REC. 23718, 23725, 23731, 23738, 92d Cong. 2d Sess., June 30, 1972 [H.R. 15390].

§ 8.2 The Chair indicated that the manager of a conference report with amendments in disagreement has the prior right to recognition to offer a preferential motion to concur in a Senate amendment with an amendment should the House recede from disagreement. 123 CONG. REC. 26206, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 7555]; 123 CONG. REC. 34109, 95th Cong. 1st Sess., Oct. 18, 1977 [H.R. 7797]. However, upon rejection of a motion offered by the manager of a conference report on an amendment in disagreement, recognition passes to a Member opposed to offer another motion. 123 CONG. REC. p. ....., 95th Cong. 1st Sess., July 19, 1977 [H.R. 7554]; 123 CONG. REC. p. ....., 95th Cong. 1st Sess., Dec. 6, 1977 [H.R. 9375]. Likewise, where a conference report is ruled out on a point of order, if the House rejects a motion by the manager of a bill to dispose of a Senate amendment remaining in disagreement, recognition to offer another motion is accorded to a Member who led the opposition to the rejected motion. 122 CONG. REC. 34085, 94th Cong. 2d Sess., Sept. 30, 1976 [H.R. 13367]. See also 118 CONG. REC. 23718, 23725, 23731, 23738, 92d Cong. 2d Sess., June 30, 1972 [H.R. 15390]. For precedents relating to debate time on conference reports and amendments reported from conference in disagreement, see Ch. 33 § 22, infra.

§ 8.3 While a motion to dispose of the amendment in disagreement may be displaced by a preferential motion, the Member offering the preferential motion does not thereby gain control of time for debate. 119 CONG. REC. 21171-80, 93d Cong. 1st Sess., June 25, 1973 [H.R. 7447]. For example, the Member offering the preferential motion to recede and concur does not thereby gain control of the time. 111 CONG. REC. 8861, 8866, 89th Cong. 1st Sess., Apr. 29, 1965; 113 CONG. REC. 25201, 25211, 90th Cong. 1st Sess., Sept. 12, 1967; 113 CONG. REC. 29837, 29842, 90th Cong. 1st Sess., Oct. 24, 1967. Thus, although the motion to recede from disagreement and concur in a Senate amendment takes precedence over the motion to adhere (106 CONG. REC. 14074, 14081, 86th Cong. 2d Sess., June 23, 1960 [H.R. 10569]) and over the motion to insist on disagreement, the Member offering the preferential motion does not thereby gain control of time for debate. 107 CONG. REC. 13079-84, 87th Cong. 1st Sess., July 20, 1961 [H.R. 7577]; 108 CONG. REC. 19714, 87th Cong. 2d Sess., Sept. 18, 1962 [H.R. 12648]; 122 CONG. REC. 31900, 94th Cong. 2d Sess., Sept. 22, 1976 [H.R. 14238]. Similarly, although the motion to concur in a Senate amendment takes precedence over the motion to disagree where the stage of disagreement has been reached, the Member offering the preferential motion does not thereby gain control of the time for debate, which remains in the control of the proponent of the original motion under the hour rule. 123 CONG. REC. 33689, 95th Cong. 1st Sess., Oct. 13, 1977 [H.R. 7555]; 123 CONG. REC. 38033, 95th Cong. 1st Sess., Nov. 29, 1977. Similar rules are applied to amendments reported from conference in disagreement: the motion to recede and concur with an amendment has preference over a motion to insist on disagreement, but the proponent of the preferential motion does

not thereby gain control of the time for debate. 121 CONG. REC. 14385, 14386, 94th Cong. 1st Sess., May 14, 1975 [H.R. 4881]. And while the motion to recede and concur in a Senate amendment reported from conference in disagreement is preferential to the motion to recede and concur with an amendment, the Member offering the preferential motion does not thereby gain control of time for debate. 121 CONG. REC. 38714, 94th Cong. 1st Sess., Dec. 4, 1975.

§ 8.4 A Member who has offered a pending preferential motion to dispose of a Senate amendment in disagreement may not, during time yielded to him for debate only, move the previous question on his motion, thereby depriving the Members in charge of control of the time. 121 CONG. REC. 38717, 94th Cong. 1st Sess., Dec. 4, 1975. *Note:* The maker of a preferential motion should not be permitted to move the previous question thereon since he does not gain the floor for any purpose other than to offer the motion; the manager of the bill should be the only Member recognized to move the previous question on the preferential motion.

§ 8.5 As noted elsewhere in this work, when an amendment is reported from conference in disagreement, the Speaker recognizes the manager of the report for a motion to dispose of the amendment, which motion is debatable for one hour, equally divided between the majority and minority pursuant to Rule XXVIII clause 2(b). (See Ch. 33 §§ 22, 23, infra.) However, the equal division of debate between the majority and minority parties under this rule only applies to conference reports and to motions to dispose of amendments reported from conference in disagreement, and the Member offering the initial motion to dispose of an amendment in disagreement which has not been reported from conference but which is subsequently before the House controls one hour of debate. 122 CONG. REC. 1036, 94th Cong. 2d Sess., Jan. 27, 1976 [H.R. 9861]. The debate time in such instances is under the control of the manager of the measure under the hour rule and division between the majority and minority parties is not required under Rule XXVIII clause 2(b). 123 CONG. REC. 38033, 95th Cong. 1st Sess., Nov. 29, 1977 [H.R. 7555]; 124 CONG. REC. 14117, 95th Cong. 2d Sess., May 17, 1978 [S. Con. Res. 80]; 124 CONG. REC. 38230, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 12929]. The Member offering the initial motion to dispose of a Senate amendment in disagreement (but not reported from conference) controls one hour of debate on that motion and on intervening preferential motions relating to disposition of the Senate amendment. 123 CONG. REC. 38012, 38013, 95th Cong. 1st Sess., Nov. 29, 1977 [H.R. 9794].

§ 8.6 The Member calling up a conference report with amendments reported from conference in disagreement controls the floor on motions to dispose of each amendment in disagreement (although the hour of debate on each such motion is equally divided and controlled); and an amendment to the pending motion may be offered only if he yields for that purpose (or if the previous question is rejected). 123 CONG. REC. 26209, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 7555].

§ 8.7 Where a conference report on a House bill with a Senate amendment is rejected, the Chair may direct the Clerk to report the Senate amendment; and if the manager of the report does not seek recognition to offer a motion to dispose of the Senate amendment the Chair recognizes a Member who had lead the opposition to the conference report to offer a motion to dispose of the amendment. 123 CONG. REC. 29597, 95th Cong. 1st Sess., Sept. 16, 1977 [H.R. 5262]. The Member recognized to offer the motion to dispose of the Senate amendment controls the floor and may move the previous question on his motion. 123 CONG. REC. 29601, 95th Cong. 1st Sess., Sept. 16, 1977 [H.R. 5262].

§ 8.8 The manager of a conference report controlling the floor on a motion to dispose of an amendment in disagreement, by yielding to another Member to offer an amendment to his motion, loses the floor on that amendment and the Member to whom yielded controls the time of debate on his amendment and may move the previous question on his amendment and on the original motion. 123 CONG. REC. 28131, 95th Cong. 1st Sess., Sept. 8, 1977 [H.R. 7933].

§ 8.9 A preferential motion to concur in a Senate amendment reported from conference in disagreement having been rejected, a motion to disagree to the Senate amendment is in order and the manager of the conference report has the prior right to recognition where he has not offered the motion to concur. 123 CONG. REC. 36966, 95th Cong. 1st Sess., Nov. 3, 1977 [H.R. 7555]. *Note:* Had the manager of the report chosen to first offer the motion to disagree, and the preferential motion to concur was then offered, he would have controlled the majority time on both motions. Had the manager offered the original motion to concur, recognition would have passed to the opponents upon rejection of that motion.

§ 8.10 The House having adopted a special order providing for consideration in the House of Senate amendments to a House joint resolution (making continuing appropriations), the Speaker recognized the ranking minority member of the appropriations subcommittee with jurisdiction to offer a motion to concur with an amendment in the second (and controversial) Senate amendment, where no majority member sought recognition to offer a motion with respect to that amendment. 123 CONG. REC. 38782, 95th Cong. 1st Sess., Dec. 7, 1977 [H. Res. 929]. *Note:* This resolution allowed the consideration of any appropriate motion to dispose of the Senate amendment, as if the stage of disagreement had been reached. Either the Chairman of the Committee on Appropriations, or another ranking majority member of the committee, such as the subcommittee chairman, would have been entitled to prior recognition to offer a motion on the second Senate amendment.

§ 8.11 After the chairman of a subcommittee of the Committee on Appropriations called up a conference report in total disagreement on a Senate amendment to a House amendment to a Senate amendment to a House bill, but did not seek recognition to offer a motion, the Chair recognized the Chairman of the Committee on Appropriations to offer the preferential motion to concur in the Senate amendment. 123 CONG. REC. 36959, 36966, 95th Cong. 1st Sess., Nov. 3, 1977 [H.R. 7555].

§ 8.12 Where a Member offering a motion to dispose of a Senate amendment in disagreement controls one-half hour of debate, a preferential motion to dispose of the Senate amendment may not be offered while he has the floor unless time is yielded for that purpose, but may be offered pending recognition of a Member from the other political party to control one-half the time on the initial motion. 126 CONG. REC. 22483, 96th Cong. 2d Sess., July 2, 1980 [H.R. 7542].

§ 9. To Agree or Concur

§ 9.1 By a resolution reported from the Committee on Rules, the House may take a House bill with Senate amendments from the Speaker's table and concur in the Senate amendments. 110 CONG. REC. 15869, 88th Cong. 2d Sess., July 2, 1964 [H. Res. 789]; 112 CONG. REC. 2069, 89th Cong. 2d Sess., Feb. 3, 1966 [H. Res. 706]. See also 121 CONG. REC. 25826, 94th Cong. 1st Sess., July 30, 1975 [H. Res. 653, providing for the concurrence in certain nongermane Senate amendments to a House bill].

§ 9.2 The House may agree to a motion to suspend the rules and adopt a resolution (of-

fered by a Member) providing for the taking of a House bill with Senate amendments from the Speaker's table and concurring in the amendments with a designated amendment. 119 CONG. REC. 42883, 42884, 93d Cong. 1st Sess., Dec. 30, 1973 [H. Res. 753]; 121 CONG. REC. 41869, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Res. 943]. The language of the amendment may be stated in the motion. 121 CONG. REC. 41954, 94th Cong. 1st Sess., Dec. 19, 1975 [H.R. 9968]; 123 CONG. REC. 22483, 95th Cong. 1st Sess., July 12, 1977 [H.R. 6893].

§ 9.3 The pendency of a unanimous-consent request to take from the Speaker's table a measure with a Senate amendment and concur in the amendment precludes a demand for a roll call vote on the amendment, since it would be disposed of if the request is granted. 117 CONG. REC. 23095, 92 Cong. 1st Sess., June 30, 1971 [H.J. Res. 742]. The failure of a Member to object to the unanimous-consent request constitutes final House action on the measure, thereby precluding a vote on the amendment. However, a unanimous-consent request invoked merely to consider a Senate amendment in the House permits a vote on a subsequent motion to concur in the Senate amendment. 121 CONG. REC. 30616, 30617, 94th Cong. 1st Sess., Sept. 26, 1975 [H.R. 9524]; 122 CONG. REC. 6148, 94th Cong. 2d Sess., Mar. 11, 1976; 122 CONG. REC. 21141, 94th Cong. 2d Sess., June 29, 1976.

§ 9.4 On rejection of a preferential motion to concur in a Senate amendment with an amendment, the question recurs on a pending motion to concur in the Senate amendment. 118 CONG. REC. 22959, 22974, 92d Cong. 2d Sess., June 28, 1972 [H.R. 13955]. On rejection of a motion to concur in a pending Senate amendment, the amendment is open to germane amendment or to a motion to disagree. 113 CONG. REC. 19033, 90th Cong. 1st Sess., July 17, 1967 [S.J. Res. 81].

§ 9.5 A privileged motion to concur in a Senate amendment with an amendment is not subject to a demand for a division of the question. 119 CONG. REC. 28121 et seq., 93d Cong. 1st Sess., Aug. 3, 1973 [S. 1888].

§ 9.6 An amendment to a motion to concur in a Senate amendment with an amendment may not be offered unless the Member having the floor yields for that purpose, or unless the previous question on the motion is defeated. 109 CONG. REC. 8508-11, 88th Cong. 1st Sess., May 14, 1963 [H.R. 5517].

§ 9.7 The adoption of a motion to table a motion to concur with an amendment in an amendment of the other House does not carry the bill to the table. 123 CONG. REC. 2948, 2950, 2951, 95th Cong. 1st Sess., Feb. 1, 1977 (Senate).

§ 10. To Recede or Recede and Concur

§ 10.1 By unanimous consent, the House may recede from its own amendments to a Senate bill. 107 CONG. REC. 18595, 87th Cong. 1st Sess., Sept. 7, 1961; 112 CONG. REC. 8207, 89th Cong. 2d Sess., Apr. 18, 1966. *Note:* If the House recedes from its own House amendments by unanimous consent, the bill is passed unless the motion otherwise specifies, or unless the Senate has concurred in the House amendment with a Senate amendment. See 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 9, 1979 [S. 1728], where, by receding from its amendments to a Senate bill, the House thereby passed the Senate bill without amendment, clearing the measure for the White House. But if by motion the House recedes from disagreement to Senate amendments, the amendments are not thereby agreed to, since a motion to concur with an amendment is still in order.

§ 10.2 The question on a motion to recede and concur in a Senate amendment may be divided on demand of a Member. 106 CONG. REC. 14074, 14081, 86th Cong. 2d Sess., June 23, 1960 [H.R. 10569]; 109 CONG. REC. 8506, 88th Cong. 1st Sess., May 14, 1963 [H.R. 5517]; 122 CONG. REC. 26781, 26782, 94th Cong. 2d Sess., Aug. 10, 1976 [H.R. 14232]. The division may be demanded as a matter of right (under clause 6 Rule XVI); the House does not vote on whether to permit a division of the question. 118 CONG. REC. 22959, 22974, 92d Cong. 2d Sess., June 28, 1972 [H.R. 13955]. If the House recedes, the motion to concur in the Senate amendment is then pending. 118 CONG. REC. 23716-18, 92d Cong. 2d Sess., June 30, 1972. However, the motion to concur in a Senate amendment is not subject to a demand for a division of the question, Senate amendments not being divisible. 123 CONG. REC. 38033, 95th Cong. 1st Sess., Nov. 29, 1977 [H.R. 7555].

§ 10.3 *Note:* Debate on a motion that the House recede and concur is under the hour rule, and, if the question is divided before the ordering of the previous question, the hour rule applies to each motion separately. See 121 CONG. REC. 38717, 94th Cong. 1st Sess., Dec. 4, 1975. The motion having been divided, the previous question applies only to the motion to recede and, if both the previous question and the motion to recede are agreed to, then the question of concurring is before the House. 109 CONG. REC. 8508-11, 88th Cong. 1st Sess., May 14, 1963 [H.R. 5517].

§ 10.4 When the motion to recede and concur was divided prior to the ordering of the previous question thereon, and the House receded, a preferential motion to concur with an amendment was offered and defeated, and when no Member sought to debate the pending motion to concur, the Speaker immediately put the question thereon. 121 CONG. REC. 38717, 94th Cong. 1st Sess., Dec. 4, 1975.

§ 10.5 *Note:* After a motion to recede and concur in a Senate amendment is divided and the pending question is to recede, no motion to concur in the Senate amendment with an amendment is in order until the House has voted to recede. See 109 CONG. REC. 8508, 88th Cong. 1st Sess., May 14, 1963 [H.R. 5517], where the stage of disagreement had been reached and the previous question had been demanded on the motion to recede [the motion to recede and concur in the Senate amendment having been divided]; the Chair informed a Member seeking recognition to offer "a substitute" motion that the previous question had been demanded, and no other motion was in order at that point.

§ 10.6 The stage of disagreement having been reached and the previous question having been demanded on the motion to recede (the motion to recede and concur in the Senate amendment having been divided), the Chair informed a Member that a motion to refer the matter back to the committee having jurisdiction would not be in order. 109 CONG. REC. 8508, 88th Cong. 1st Sess., May 14, 1963 [H.R. 5517].

§ 10.7 If a motion to recede and concur in a Senate amendment is defeated, a further motion relating to the amendment in disagreement is in order. 113 CONG. REC. 29044, 29048, 90th Cong. 1st Sess., Oct. 17, 1967 [H.R. 11476], indicating that a motion to insist on disagreement and ask for further conference on the Senate amendment would be in order. If a motion to insist on disagreement to the Senate amendment was pending, the question would recur on that motion. 108 CONG. REC. 19945, 87th Cong. 2d Sess., Sept. 19, 1962 [H.R. 12648]; 109 CONG. REC. 24815-22, 88th Cong. 1st Sess., Dec. 17, 1963 [H.R. 8667]. Of course, if the House agrees to the motion to recede and concur, the motion to insist upon disagreement falls and is not voted upon. 105 CONG. REC. 19740-42, 86th Cong. 1st Sess., Sept. 14, 1959.

§ 10.8 The stage of disagreement having been reached on a House amendment to a Senate amendment to a House proposition, the House may recede from its amendment and, having receded, may then concur in the Senate amendment with a different amendment (and such separate actions are not tantamount to the House's receding from its own amendment with an amendment as proscribed by Jefferson's Manual). 123 CONG. REC. 33448, 95th Cong. 1st Sess., Oct. 12, 1977 [H.R. 7555]. *Note:* Jefferson's Manual § 526 states the principle of parliamentary law that the House may not recede from or insist on its own amendment with an amendment. This is construed to mean that, on a House amendment to a Senate amendment to a House bill in disagreement, a single motion may not be made to recede from the House amendment with an amendment.

§ 10.9 The original papers being in the possession of the House, the House may by unanimous consent discharge the House conferees and concur in the Senate amendments that have been in disagreement. 110 CONG. REC. 23786, 88th Cong. 2d Sess., Oct. 2, 1964 [H.R. 4649].

§ 11. To Recede and Concur With an Amendment

§ 11.1 Where one motion to recede and concur with an amendment is rejected, another motion to recede and concur with a different amendment may be offered. 108 CONG. REC. 23474, 23476-83, 87th Cong. 2d Sess., Oct. 13, 1962; 113 CONG. REC. 29933, 29942-44, 90th Cong. 1st Sess., Oct. 25, 1967 [H.R. 11641]; 117 CONG. REC. 16197, 16201, 92d Cong. 1st Sess., May 20, 1971.

§ 11.2 Where a motion by the Member in charge of a bill to recede and concur in a Senate amendment with an amendment is defeated, recognition for a motion to recede and concur with another amendment passes to a Member opposed to the defeated motion. 120 CONG. REC. 34151, 34157-59, 93d Cong. 2d Sess., Oct. 7, 1974 [H.J. Res. 1131]. While defeat of a pending motion to recede and concur in a Senate amendment with an amendment permits the offering of another motion to dispose of the Senate amendment, the Chair will not indicate in advance whom he will recognize to offer such a motion. 122 CONG. REC. 32721, 94th Cong. 2d Sess., Sept. 27, 1976.

§ 11.3 A motion to recede and concur with an amendment is subject to amendment if the previous question is voted down (113 CONG. REC. 35811-33, 35841, 90th Cong. 1st Sess., Dec. 11, 1967 [H.R. 7977]), or if the Member in control of the floor yields for that purpose. 121 CONG. REC. 40713, 94th Cong. 1st Sess., Dec. 15, 1975; 122 CONG. REC. 32720, 94th Cong. 2d Sess., Sept. 27, 1976.

§ 11.4 A motion to recede from disagreement to a Senate amendment and concur therein with an amendment may, upon demand of any Member, be divided to permit separate votes first on the motion to recede, and (if the House does recede) then on the motion to concur with an amendment. 121 CONG. REC. 32604, 94th Cong. 1st Sess., Oct. 7, 1975 [H.R. 8121]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 2, 1979 [H.R. 4388].

12. To Insist or Adhere

§ 12.1 The motions to recede, insist, and adhere have precedence in the order named without regard to the order in which they may be offered. 5 Hinds' Precedents § 6324. When the originating House disagrees to the amendment of the other House, the latter may recede from or insist on its own amendment. When both Houses have insisted, neither inclining to recede, it is in order to adhere. 5 Hinds' Precedents § 6163. Adherence is to be distinguished from insistence in that adherence represents an uncompromising position and may not be accompanied by a request for a

conference. The House that votes to adhere does not ask a conference, but the other House may vote to insist and seek a conference. 5 Hinds' Precedents §§ 6241, 6308. And one House, having adhered, may recede from its adherence and agree to a conference asked by the other, or it may vote to further adhere. 5 Hinds' Precedents § 6251. An adherence by both Houses to disagreement over amendments causes a bill to fail. 5 Hinds' Precedents § 6163.

§ 12.2 The rejection of a motion to recede and concur is not equivalent to the affirmation of a motion that the House insist on disagreement. 108 CONG. REC. 19945, 87th Cong. 2d Sess., Sept. 19, 1962 [H.R. 12648]. The House having refused to recede from disagreement to a Senate amendment, the motion to insist upon disagreement (and request a further conference) is in order. 111 CONG. REC. 8867, 8871, 89th Cong. 1st Sess., Apr. 29, 1965; 119 CONG. REC. 22381 et seq., 93d Cong. 1st Sess., June 29, 1973 [H.R. 8410]. Where a division of the question is demanded on a pending motion to recede and concur in a Senate amendment in disagreement between the two Houses, and the House refuses to recede, a motion to insist on disagreement is in order. 115 CONG. REC. 40902, 40914, 40921, 91st Cong. 1st Sess., Dec. 22, 1969 [H.R. 15209]. Similarly, a motion to recede and concur with an amendment having been divided, and the House refusing to recede, the question recurs on a pending motion to insist upon disagreement. 124 CONG. REC. 36396, 95th Cong. 2d Sess., Oct. 12, 1978 [H.R. 12929].

§ 12.3 The motion to recede and concur takes precedence of the motion to insist on disagreement; but where the motion to recede and concur is divided, and the House refuses to recede, a motion to insist is then entertained. 115 CONG. REC. 40902, 40914, 40921, 91st Cong. 1st Sess., Dec. 22, 1969 [H.R. 15209]. Since the refusal of the House to recede is not equivalent to insisting upon disagreement—the House might adhere—the House may vote separately on the motion to insist upon disagreement. 119 CONG. REC. 21171 et seq., 93d Cong. 1st Sess., June 25, 1973 [H.R. 7447].

§ 12.4 A motion to further insist on disagreement and request a further conference is in order after the rejection of a conference report, and recognition for this motion is within the discretion of the Chair. 108 CONG. REC. 20094, 20105, 20128, 87th Cong. 2d Sess., Sept. 20, 1962 [H.R. 12391]. A motion to further insist on disagreement is also in order where, after agreement to a conference report, a motion to recede and concur in a Senate amendment in disagreement is rejected. 115 CONG. REC. 36759, 91st Cong. 1st Sess., Dec. 3, 1969 [H.R. 14159]. Similarly, upon rejection of a motion offered by the manager of a conference report in disagreement to recede and concur in the Senate amendment in disagreement with an amendment, the manager may be recognized to offer a motion that the House insist on its disagreement to the amendment. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 23, 1979 [H. Con. Res. 107]. And where a motion to recede and concur with an amendment to an amendment reported in disagreement from conference has been divided, and the motion to recede is rejected, the manager is entitled to recognition to offer a motion to insist on disagreement. 121 CONG. REC. 30081, 30082, 94th Cong. 1st Sess., Sept. 24, 1975.

§ 12.5 Rejection of a motion to insist upon disagreement to a Senate amendment is not tantamount to concurrence and further action is required to dispose of the Senate amendment. 108 CONG. REC. 19945, 87th Cong. 2d Sess., Sept. 19, 1962 [H.R. 11151], where the chairman of the House conferees [who had offered the motion to insist] was recognized to offer a motion to recede and concur.

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Chapter 33

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A. INTRODUCTORY

§ 1. In General; Closing Conference Meetings

§ 1.1 It was Jefferson's view that a House-Senate conference may be sought "in all cases of difference of opinion between the two Houses on matters depending between them." While conferences between the two Houses are usually held over differences as to amendments to bills, occasionally differences arise as to the respective prerogatives of the Houses or over matters of procedure. *House Rules and Manual* §§ 530, 531 (96th Cong.).

§ 1.2 Where both Houses have adopted a conference report on a bill and amendments thereto, but certain amendments are still in disagreement between them, a further conference may be asked on the remaining amendments. 108 CONG. REC. 20489, 87th Cong. 2d Sess., Sept. 24, 1962 [H.R. 12711]. Where one House adopts a conference report and concurs in certain amendments of the other House reported back from conference in disagreement, and the latter House then rejects the conference report, action on the amendments to which both Houses have agreed is nevertheless completed, and only those amendments which remain in disagreement are properly the subjects of a further conference between the two Houses. 116 CONG. REC. 43805–07, 43814, 91st Cong. 2d Sess., Dec. 29, 1970 [conf. rept. on H.R. 19590].

§ 1.3 A conference committee may consider two or more legislative bills. 117 CONG. REC. 42046, 42052, 92d Cong. 1st Sess., Nov. 18, 1971 [H. Res. 710, taking two Senate bills from the Speaker's table and sending those bills to conference].

§ 1.4 Rule XXVIII clause 6 was amended in 1977 to require all conference meetings to be open to the public except where the House by roll call vote determines otherwise and to invalidate any conference report filed by House conferees who met in violation of the rule. 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977 [H. Res. 5]. *Note:* Since the Senate also may vote on the question of closing a conference meeting, the vote of the House to close such meeting merely permits the House conferees to so vote. If the managers of the bill in conference decline to close the meeting to the public, it remains open notwithstanding a previous roll call vote in the House that it be closed. House action on a motion to close a meeting is not binding on the Senate conferees, each House having a vote in conference on whether to close the meeting to the public.

A motion to close a conference meeting is privileged for consideration in the House after the House has agreed to go to conference and the Speaker has appointed conferees, is debatable for one hour under the control of the Member making the motion, and must be voted on by a roll call vote. 123 CONG. REC. 15880, 15881, 95th Cong. 1st Sess., May 23, 1977 [H.R. 5970]; 123 CONG. REC. 24365, 95th Cong. 1st Sess., July 21, 1977 [H.R. 7933]; 124 CONG. REC. 10128, 95th Cong. 2d Sess., Apr. 13, 1978 [H.R. 5289]. The motion may be modified by the Member offering the motion only by unanimous consent, and may be amended only if that Member yields for that purpose (or the previous question is rejected). 123 CONG. REC. 15880, 15881, 95th Cong. 1st Sess., May 23, 1977 [H.R. 5970]. The motion may provide for exceptions or limitations, such as providing that the meeting may be closed only when certain matters are under discussion or that any sitting Member of Congress shall have the right to attend such meeting. 123 CONG. REC. 24365, 24366, 95th Cong. 1st Sess., July 21, 1977 [H.R. 7933]; 124 CONG. REC. 20960, 95th Cong. 2d Sess., July 14, 1978 [H.R. 10929]. A motion to close a conference committee meeting "to the public" would ex-

clude Members who were not conferees, but it may be modified to specifically permit non-committee members to attend conference meetings otherwise closed to the public. 123 CONG. REC. 15880, 15881, 95th Cong. 1st Sess., May 23, 1977 [H.R. 5970], indicating that the motion to close the conference meeting to the public, except to Members of Congress, was privileged under the rule.

Note: A former rule permitted a majority of the conferees of either House to close a conference meeting by a roll call vote held in open session. 121 CONG. REC. 21, 94th Cong. 1st Sess., Jan. 14, 1975 [H. Res. 5]. A Member's point of order against a conference report under this rule was overruled where the minutes of the conference meeting indicated that a meeting of House and Senate conferees had been held pursuant to the rule and that a motion was adopted which finally disposed of the issues in disagreement, as reflected by the signatures of a majority of the conferees from each House, and where the Member could not prove that a subsequent and final meeting of the conferees was held in violation of that rule. 122 CONG. REC. 33020, 94th Cong. 2d Sess., Sept. 28, 1976 [conf. rept. on S. 521].

§ 1.5 If a point of order were sustained against a conference report under clause 6 of Rule XXVIII for failure of the conferees to conduct a proper open meeting, it would result in rejection of the report and in the automatic request for a new conference and appointment of new conferees without intervening motion to instruct, and would also permit the Senate if it agreed to a new conference to act first on a new conference report after filing. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 25, 1980 [conf. rept. on S. 662].

§ 2. Motions and Unanimous-consent Requests for Conference

§ 2.1 A motion to send a measure to conference is authorized by Rule XX clause 1. 122 CONG. REC. 27831, 94th Cong. 2d Sess., Aug. 26, 1976; 123 CONG. REC. 33433, 95th Cong. 1st Sess., Oct. 12, 1977 [H.R. 3744]. The motion is privileged at any time the House is in possession of the papers if the appropriate committee has authorized the motion and the Speaker in his discretion recognizes for that purpose. 121 CONG. REC. 7646, 94th Cong. 1st Sess., Mar. 20, 1975 [H.R. 4592]. Senate amendments may be taken from the Speaker's table and sent to conference by motion under this rule. 116 CONG. REC. 23518, 23524, 91st Cong. 2d Sess., July 9, 1970 [H.R. 15628]; 117 CONG. REC. 22406-13, 22429, 92d Cong. 1st Sess., June 28, 1971 [H.R. 6531]. Where objection is raised to a unanimous-consent request to take a House bill with a Senate amendment from the Speaker's table and request a conference with the Senate, the bill is subject to further action by the House; and it may be sent to conference by motion under clause 1 Rule XX if such action is authorized by the legislative committee having jurisdiction of the legislation. 114 CONG. REC. 15499, 90th Cong. 2d Sess., May 29, 1968 [H.R. 5037]. *Note:* The motions permitted by the rule may be raised at each stage of amendment between the Houses, and include a motion to disagree to Senate amendments to a House amendment to a Senate bill and request a conference (116 CONG. REC. 42195, 91st Cong. 2d Sess., Dec. 17, 1970 [S. 1181]; 118 CONG. REC. 7540, 92d Cong. 2d Sess., Mar. 8, 1972 [S. 659]), or a motion to insist on a House amendment to the Senate amendment and request a conference.

§ 2.2 The provisions of clause 1 Rule XX—that the Speaker has discretionary authority to recognize for motions to send a bill to confer-

ence and that each such motion must be authorized by the committee having jurisdiction over the bill—prevent the use of that motion as a dilatory tactic. 118 CONG. REC. 33502, 33509, 92d Cong. 2d Sess., Oct. 3, 1972 [H.R. 7130]. In this instance, the rule was interpreted by the Speaker to permit the repetition of the motion (1) where the committee had met again (after the House's rejection of the first motion) to authorize its chairman to make a second motion and (2) where no other motions were then in order to dispose of the Senate amendment, the stage of disagreement not having been reached. *Note:* The rule has been interpreted and applied to require a committee authorization with respect to each particular bill. A committee may not in advance by a single motion in committee authorize the chairman to send all bills within its jurisdiction with Senate amendments to conference, but rather must act on an ad hoc basis on each bill.

§ 2.3 A Member making a motion to send a bill to conference under clause 1 Rule XX is recognized for one hour and is in control of the debate on the motion. 114 CONG. REC. 23935, 90th Cong. 2d Sess., July 29, 1968 [H.R. 15387]; 116 CONG. REC. 5722, 91st Cong. 2d Sess., Mar. 3, 1970 [H.R. 15931]; 118 CONG. REC. 26153, 26156, 92d Cong. 2d Sess., Aug. 1, 1972 [H.R. 7130]. When the previous question is ordered on the motion, further debate may be had on it only by unanimous consent. 116 CONG. REC. 23518, 23524, 91st Cong. 2d Sess., July 9, 1970 [H.R. 15628].

§ 2.4 A motion to send a bill to conference may not be amended to include instructions to House conferees; however a motion to instruct may be offered following the adoption of the motion to go to conference. 117 CONG. REC. 36832-35, 92d Cong. 1st Sess., Oct. 19, 1971 [H.R. 8687].

§ 2.5 Where a measure has been reported by two or more committees, each committee must authorize the motion to request the conference with the Senate. 124 CONG. REC. 31623, 95th Cong. 2d Sess., Sept. 26, 1978 [S. 1566]. However, in one instance in the 96th Congress, where objection had been made to a unanimous-consent request to send to conference a bill which had been reported from four committees, the Committee on Rules reported a special rule to accomplish that result rather than require each committee to separately meet and authorize a motion under Rule XX clause 1. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 30, 1979 [H.R. 111].

§ 3. Who May Seek

§ 3.1 Motions to send a measure to conference (or to agree to a conference) pursuant to Rule XX clause 1 are generally made by the chairman of the legislative committee with jurisdiction over the measure, acting by direction of that committee. Under this rule, he may move to take a House bill with the Senate amendment from the Speaker's table and to send the bill to conference. 119 CONG. REC. 10032-34, 93d Cong. 1st Sess., Mar. 28, 1973. See also 117 CONG. REC. 22406-13, 92d Cong. 1st Sess., June 28, 1971 [H.R. 6531], where the Chairman of the Committee on Armed Services, acting by direction of his committee, moved to send a bill to conference under Rule XX clause 1. Likewise, where objection is raised to a unanimous-consent request to send a bill or joint resolution to conference, the chairman of a House committee, acting by direction of that committee, may move to send it to conference under Rule XX clause 1. 117 CONG. REC. 36832-35, 92d Cong. 1st Sess., Oct. 19, 1971 [H.R. 8687]; 117 CONG. REC. 41555, 92d Cong. 1st Sess., Nov. 16, 1971 [H.J. Res. 946]; 119 CONG. REC. 18116, 93d Cong. 1st Sess., June 5, 1973 [H.R. 7447]. However, the committee may authorize a subcommittee chairman (117 CONG. REC. 27305 et seq., 92d Cong. 1st Sess., July 27, 1971), or a member of the full committee to make the motion. 116

CONG. REC. 5722, 91st Cong. 2d Sess., Mar. 3, 1970 [H.R. 15931].

§ 4. When in Order

§ 4.1 The rule (Rule XX clause 1) authorizing the motion to send a measure to conference was amended in 1965 to provide that the motion "shall always be in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made by direction of the committee having jurisdiction of the subject matter of the bill or resolution." (H. Res. 8, 89th Cong., Jan. 4.) This provision has been held to supersede those precedents established prior to the adoption of that rule which precluded the motion to go to conference until the stage of disagreement had been reached, the Speaker ruling that those precedents are not applicable to motions under clause 1 Rule XX to disagree or insist and go to an initial conference with the Senate. 118 CONG. REC. 26153, 26156, 92d Cong. 2d Sess., Aug. 1, 1972 [H.R. 7130].

§ 4.2 A motion to disagree to a Senate amendment to a House measure and request a conference is in order on the same day the measure and Senate amendment are messaged to the House, if the Speaker in his discretion recognizes for that purpose and if the motion is authorized by the committee which has reported the measure to the House. 117 CONG. REC. 41555, 92d Cong. 1st Sess., Nov. 16, 1971 [H.J. Res. 946].

§ 4.3 Where a point of order against a conference report is sustained, the amendments of the Senate are again before the House, and a motion to send the bill and amendments to conference is again in order. 108 CONG. REC. 22332, 87th Cong. 2d Sess., Oct. 4, 1962 [H.R. 7927].

§ 4.4 A motion to request a further conference on an amendment reported in disagreement by conferees is not in order so long as preferential motions to dispose of amendments in disagreement are pending. 113 CONG. REC. 29044, 29048, 90th Cong. 1st Sess., Oct. 17, 1967 [H.R. 11476].

B. CONFERENCE MANAGERS OR CONFEREES

§ 5. Appointment by the Speaker

§ 5.1 The designation of conferees is within the discretion of the Speaker, although in making his appointments, he normally consults with the chairman of the committee having jurisdiction of the bill. 112 CONG. REC. 26996, 89th Cong. 2d Sess., Oct. 14, 1966. Rule X clause 6(e) was amended in the 93d Congress (and again in the 95th Congress) to require the Speaker to appoint "a majority of members who generally supported the House position," as determined by him; the rule as amended further provides for the appointment as conferees Members who are "primarily responsible" for the bill and who are principal sponsors of major provisions of the House-passed bill. *House Rules and Manual* § 701(e) (96th Cong.). However, the exercise of the Speaker's discretionary authority under the rule to (1) determine whether a majority of the conferees generally supported the House position, and (2) to appoint "to the maximum extent feasible" the principal proponents of major provisions of the House-passed bill, is not subject to challenge on a point of order. Moreover, in determining whether at least a majority of proposed House conferees have "generally supported the House position," the Speaker is not required by the rule to consider the conferees' positions solely on the matters in dispute during debate on the bill. See 123 CONG. REC. 33434, 95th Cong. 1st Sess., Oct. 12, 1977 [H.R. 3744].

In making an appointment, the Speaker may designate as a conferee a Member whose responsibility is to be confined solely to a major provision of the House-passed measure that is being submitted to conference. 123 CONG. REC. 20132, 95th Cong. 1st Sess., June 21, 1977 [H.R. 6161]; 123 CONG. REC. 27078, 95th Cong. 1st Sess., Aug. 4, 1977 [H.R. 6161]; 123 CONG. REC. 33435, 95th Cong. 1st Sess., Oct. 12, 1977 [H.R. 3744]. And he may appoint an additional conferee—a principal proponent of a major provision in the House-passed measure—solely for consideration of that provision and modifications thereof committed to conference. 123 CONG. REC. 33435, 95th Cong. 1st Sess., Oct. 12, 1977 [H.R. 3744]; 124 CONG. REC. 31623, 95th Cong. 2d Sess., Sept. 26, 1978 [S. 1566]; 124 CONG. REC. 32699, 95th Cong. 2d Sess., Sept. 29, 1978 [S. 555].

§ 5.2 The number of Members appointed to act as managers on the part of the House at a conference is within the discretion of the Speaker, and where it is necessary to reflect divergent views on the legislation, the Speaker may appoint a large number. 115 CONG. REC. 38877 et seq., 91st Cong. 1st Sess., Dec. 12, 1969. They are usually appointed by the Speaker immediately after the request for a conference is granted, but they may be appointed on a subsequent day. 124 CONG. REC. 32028, 95th Cong. 2d Sess., Sept. 27, 1978 [H.R. 1]; 124 CONG. REC. 32699, 95th Cong. 2d Sess., Sept. 29, 1978 [S. 555].

§ 5.3 The Speaker may appoint the same conferees who have reported back from a previous conference in disagreement. 109 CONG. REC. 13631, 13635, 88th Cong. 1st Sess., July 30, 1963.

§ 5.4 Where a bill or amendment in disagreement in conference falls within the jurisdiction of two committees of the House, the Speaker may name members from both those committees as managers and specify the respective areas on which they are to confer. 107 CONG. REC. 10832, 87th Cong. 1st Sess., June 20, 1961; 116 CONG. REC. 5713, 91st Cong. 2d Sess., Mar. 3, 1970 [H.R. 14465]; 117 CONG. REC. 43422, 92d Cong. 1st Sess., Nov. 30, 1971 [S. 382]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 14, 1979 [H.R. 4040]. And where one of the committees to which a bill has been jointly referred emerges as the primary committee, the Speaker may appoint members from that committee as conferees on all matters committed to conference, and members from the other committee as additional conferees solely for consideration of designated matters within that committee's jurisdiction. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 22, 1979 [S. 918]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 6, 1979 [S. 914]. However, the Speaker may appoint as conferees members from two or more committees without restricting them to consideration of matters within their respective committee's jurisdiction. 124 CONG. REC. 33568, 95th Cong. 2d Sess., Oct. 4, 1978 [H.R. 8309]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 27 1979 [H.R. 111]. The Speaker may also appoint managers from committees having jurisdiction over nongermane portions of a Senate bill committed to conference. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., July 28, 1980 [S. 2597].

§ 5.5 Where the Senate had amended a House-passed bill within the jurisdiction of one committee to include provisions of another House-passed bill within the jurisdiction of another committee, the House amended the Senate amendment to incorporate in separate titles the provisions of both House-passed bills, and the Speaker then appointed separate groups of conferees to consider issues within their respective committee's jurisdictions. 124 CONG. REC. 32899, 95th Cong. 2d Sess., Oct. 2, 1978 [H.R. 12467]. And where the Senate amended a House amendment to a Senate bill (reported from the House Committee on Banking, Finance and Urban Affairs) with a comprehensive amendment in the nature of a

substitute containing energy conservation measures within the jurisdictions of five House committees, the Speaker appointed conferees from all such committees to confer on the Senate provisions. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 28, 1979 [S. 932]. Similarly where a House bill reported by the Committee on Public Works and Transportation amending the Airport and Airway Development Act in several diverse respects had been amended by an unrelated Senate amendment dealing with the regulation of airport and airway noise, the Speaker appointed as a House conferee the chairman of the subcommittee of the Committee on Interstate and Foreign Commerce to which had been sequentially referred a separate bill on aircraft noise originally reported from Public Works. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 16, 1979 [H.R. 2440].

§ 5.6 By unanimous consent, additional conferees may be appointed subsequent to the original appointment. 113 CONG. REC. 16199, 90th Cong. 1st Sess., June 19, 1967 [H.R. 2508]; 117 CONG. REC. 26442, 92d Cong. 1st Sess., July 21, 1971 [H.R. 8630]; 118 CONG. REC. 19909, 92d Cong. 2d Sess., June 7, 1972 [H.R. 9580]; 118 CONG. REC. 24863, 92d Cong. 2d Sess., July 24, 1972 [H.R. 14108]; 120 CONG. REC. 15745, 93d Cong. 2d Sess., May 21, 1974 [H.R. 14368]. In making such appointments, the Speaker may specify that a conferee be authorized to act only with respect to a certain provision. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Aug. 2, 1979 [H.R. 3875]. The Clerk is directed by the Speaker to notify the Senate of the appointment of additional House conferees. 118 CONG. REC. 31418, 92d Cong. 2d Sess., Sept. 20, 1972.

§ 5.7 A designated Speaker pro tempore may appoint conferees only by unanimous consent. 108 CONG. REC. 23032, 87th Cong. 2d Sess., Oct. 10, 1962 [H.R. 13727]; 113 CONG. REC. 34038, 90th Cong. 1st Sess., Nov. 28, 1967 [H.R. 2275]; 116 CONG. REC. 43398, 91st Cong. 2d Sess., Dec. 22, 1970 [H.R. 17867].

§ 5.8 On the "Omnibus Reconcilation Act of 1980" considered in both Houses pursuant to the first concurrent resolution on the budget for the ensuing fiscal year, directing designated committees to report reconciliation legislation to the Budget Committees pursuant to §310 of the Congressional Budget Act, and where those legislative committees had managed their respective portions of the bill during House consideration, the Speaker appointed five members of the Budget Committee to confer in conference on the entire bill and Senate amendment, and appointed at least six members from each legislative committee to confer in conference solely on the designated portions of the bill and Senate amendment within their respective jurisdictions. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Sept. 18, 1980 [H.R. 7755].

§ 6. Power and Discretion of Conferees

§ 6.1 When a bill is sent to conference, matters in disagreement between the Houses, and only matters in disagreement between the Houses, are before the conferees. See 105 CONG. REC. 11599, 11615, 86th Cong. 1st Sess., June 23, 1959 [S. 57]; 120 CONG. REC. 41850, 93d Cong. 2d Sess., Dec. 20, 1974 [H.R. 620]. The controlling rule provides that the report of the managers must not include matter not committed to the conference by either House, nor may their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope thereof. Clause 3 Rule XXVIII.

§ 6.2 Restrictions against the inclusion of appropriations in reported legislative bills are provided for by House rule, which also pro-

hibits amendments proposing appropriations on a legislative bill. Rule XXI clause 5. Another House rule states that no amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of Rule XXI, if that amendment originated in the House, nor any amendment of the Senate providing for an appropriation on any bill other than a general appropriation bill, may be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House. Rule XX clause 2. Under this rule, where a House legislative measure has been committed to conference, and the conferees agree to a Senate amendment appropriating funds, the conference report thereon may be ruled out. 108 CONG. REC. 22332, 87th Cong. 2d Sess., Oct. 4, 1962, holding that where conferees agreed to a Senate amendment with an amendment providing for the payment of certain benefits from the civil service retirement and disability fund, the agreement constituted a violation of clause 2 Rule XX. In the 96th Congress, a point of order that House conferees had violated clause 2 of Rule XX by agreeing to a provision in a Senate amendment to a House legislative bill, directing the use of funds already appropriated for a new purpose, was conceded, and the conference report was ruled out of order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 29, 1979 [H.R. 2676]. However, Rule XX clause 2 is not applicable where a Senate bill and House amendments are committed to conference. 122 CONG. REC. 21633, 94th Cong. 2d Sess., June 30, 1976 [S. 3295].

§ 6.3 When the two Houses fix different periods of time, the conferees have latitude only between the two and may not exceed the longer or go below the shorter. 113 CONG. REC. 35811-33, 35841, 90th Cong. 1st Sess., Dec. 11, 1967. Thus, where the Senate has amended a House-passed bill to change the effective date therein, the authority of the conferees on the bill is limited to the difference between the dates in each version, and where the dates contained in both bills have since passed, the conferees must report the Senate amendment back in technical disagreement so that the effective date can be considered separately. 116 CONG. REC. 6793, 6795, 91st Cong. 2d Sess., Mar. 11, 1970 [conf. rept. on H.R. 6543]. *Note:* The Senate, which acted first on the conference report, was precluded from receding from its amendment with an amendment. However, the House could have kept the papers following the conference and acted first on the amendment in disagreement by receding and concurring in the Senate amendment with an amendment. The Senate could then have concurred in the House amendment. Or the conferees could have agreed to either the House or Senate version and then, following the adoption of the conference report in both Houses, could have considered by unanimous consent a concurrent resolution directing the Clerk of the House, in the enrollment of the bill, to insert a new date in lieu of that carried in the conference version.

§ 6.4 Where sections of a conference report contain higher entitlements for certain veterans' benefits than those contained in either the House bill or in the Senate amendment in the nature of a substitute, the conferees may be held to have exceeded their authority in violation of Rule XXVIII clause 3, and the conference report ruled out of order. 120 CONG. REC. 30050-52, 93d Cong. 2d Sess., Aug. 22, 1974 [H.R. 12628].

§ 6.5 Where one House has amended an existing law and the other House has implicitly taken the position of existing law by authorizing sums only for the purpose of that law, the matter committed to conference encompasses questions that lie between issues presented by the amending language on the one hand and the relevant provisions of the existing law on the other; but the inclusion in a conference report of a provision incorporating into existing law matters which were not con-

tained in either version and which are not repetitive of that law is not in order. 123 CONG. REC. 33772, 95th Cong. 1st Sess., Oct. 14, 1977 [S. 1811]. Thus, where a Senate amendment had amended the Alaska Native Claims Settlement Act to establish a corporation to receive and distribute benefits under the act to new enrollees, and the House bill contained no comparable provision, the House conferees exceeded their authority by including in their report a provision for cancellation of stock previously issued to certain natives, a matter not contained either in the Senate amendment or specifically provided for in existing law. 120 CONG. REC. 41850, 93d Cong. 2d Sess., Dec. 20, 1974 [H.R. 620]. Likewise, where a Senate bill amended existing law to require that funds appropriated for a certain project be applied toward that project and not toward its cancellation or termination, and a portion of the House amendment thereto authorized a certain sum only for its continuation, the House conferees exceeded their authority under Rule XXVIII clause 3 by agreeing to a provision amending existing law to require that the project be located at a certain physical site, unless unsuitable from the standpoint of health and safety, where location and safety were not mentioned in either version. 123 CONG. REC. 33772, 95th Cong. 1st Sess., Oct. 14, 1977 [S. 1811]. *Note:* In this instance, the precedent of Dec. 20, 1974 (above) was cited by the Chair as a comparable situation; there, it was alleged by the proponents of the conference report that the new language in the report only embodied assumptions drawn from the versions of both Houses. The Chair was persuaded, however, that the report contained new and affirmative requirements not mandated by either House.

§ 6.6 Under Rule XXVIII clause 3, some latitude remains to House managers to add compromising language not included in either version so long as it remains within the scope of the differences committed to conference and does not incorporate additional matters not committed to conference. *House Rules and Manual* § 913(a) (96th Cong.). Thus, where a Senate bill authorized appropriations for the federal payment to the District of Columbia in an amount equal to 40 percent of certain revenue estimates, and a House amendment provided an annual authorization of $250 million, House conferees did not exceed their authority by recommending amounts which, though higher than those contained in the House amendment, were lower than the revenue estimates for those years and were based on the revenue-raising authority conferred upon the District under existing law. 119 CONG. REC. 42035, 42036, 93d Cong. 1st Sess., Dec. 17, 1973 [S. 1435]. Similarly, where a Senate amendment imposed upon a federal official the duty of preparing an environmental impact analysis, and the House bill, though containing no comparable provision, adopted the position of existing law under which federal officials were authorized to consult with state and federal agencies in the preparation of environmental impact statements, House conferees did not exceed their authority by agreeing to a modification of the Senate provision requiring the federal official to provide early notification to and solicitation of the views of any other state or federal land management entity and to assess those impacts—a limitation and clarification of the requirements contained in the Senate amendment and in existing law and not an expansion thereof. 121 CONG. REC. 25517, 94th Cong. 1st Sess., July 29, 1975 [H.R. 3130]. Likewise, where a bill of one House permits unlimited delegation of authority from a federal official to state agencies, and the other House's version precludes any delegation of authority, House conferees may recommend a limited delegation of the same authority without introducing a new topic in the report going beyond the scope of the differences committed to conference. 122 CONG. REC. 35102, 35103, 94th Cong. 2d Sess., Oct. 1, 1976 [conf. rept. on H.R. 12572]. In this instance, House conferees did not exceed their

authority under Rule XXVIII clause 3 by permitting the delegation of inspection authority in states where inspections were performed by state agencies—a compromise between an unlimited delegation of authority in the House and a prohibition against delegation of authority in the Senate amendment.

§ 6.7 Concurrent resolutions permitting conferees to consider matters not technically committed to conference are in order for consideration in the House by unanimous consent. By unanimous consent, the House may consider a Senate concurrent resolution declaring that the Senate has adopted a numbered amendment striking out a provision previously sent to conference, and authorizing the conferees to consider that amendment as having been committed to conference. 120 CONG. REC. 40472, 93d Cong. 2d Sess., Dec. 17, 1974 [S. Con. Res. 124]. The same procedure has been used to consider a Senate concurrent resolution providing that a new section be inserted in the engrossment of the Senate amendments to a House bill already sent to conference and be considered as being in conference. 122 CONG. REC. 28969, 94th Cong. 2d Sess., Sept. 2, 1976 [S. Con. Res. 137].

§ 6.8 A conference report on a House concurrent resolution on the budget was reported back in total disagreement since the informal decisions reached by the conferees would have exceeded the scope of the differences committed to conference by reducing certain aggregate totals below those in the House or Senate version of the resolution. 123 CONG. REC. 29021, 95th Cong. 1st Sess., Sept. 13, 1977 [H. Con. Res. 341]. See also 124 CONG. REC. 14116, 95th Cong. 2d Sess., May 17, 1978 [S. Con. Res. 80], where the conferees on the first concurrent resolution on the budget reported back in disagreement since the figures informally agreed upon in conference were beyond the scope of the matters committed to conference.

§ 7. Changing Conferees; Resignations

§ 7.1 House managers at a conference are excused from service on the committee of conference only by action of the House. 115 CONG. REC. 31198, 91st Cong. 1st Sess., Oct. 23, 1969 [S. 1857]. Unanimous consent is required to excuse a Member from service as a conferee in order to enable the Speaker to appoint a replacement. 113 CONG. REC. 35134, 90th Cong. 1st Sess., Dec. 6, 1967; 117 CONG. REC. 44258, 92d Cong. 1st Sess., Dec. 2, 1971; 124 CONG. REC. 31329, 95th Cong. 2d Sess., Sept. 25, 1978 [H.R. 9261]. *Note:* While the Speaker must have the authorization of the House in appointing an additional conferee, when the resignation of a conferee is by unanimous consent accepted by the House, the Speaker then appoints a successor without specific House authorization. 116 CONG. REC. 32745, 91st Cong. 2d Sess., Sept. 21, 1970; 117 CONG. REC. 34348, 92d Cong. 1st Sess., Sept. 10, 1971; 118 CONG. REC. 8480, 92d Cong. 2d Sess., Mar. 15, 1972; 118 CONG. REC. 27520, 92d Cong. 2d Sess., Aug. 9, 1972. (Compare 107 CONG. REC. 20491, 87th Cong. 1st Sess., Sept. 20, 1961, where a resignation of a conferee was, by unanimous consent, accepted by the House, and the Speaker pro tempore then appointed a successor by unanimous consent.)

§ 7.2 The Speaker may appoint a conferee to fill the vacancy caused by the death of another Member. 119 CONG. REC. 36222, 36223, 93d Cong. 1st Sess., Nov. 7, 1973 [conf. rept. on S. 1081].

§ 7.3 Usually a conferee resigns by sending a letter of resignation to the Speaker which is laid before the House. But a conferee may be excused by unanimous consent at the request of another Member, particularly where time is of the essence. 115 CONG. REC. 31198, 91st

Cong. 1st Sess., Oct. 23, 1969; 118 CONG. REC. 24864, 92d Cong. 2d Sess., July 24, 1972 [S. 635]; 119 CONG. REC. 40500, 93d Cong. 1st Sess., Dec. 10, 1973.

§ 7.4 The Speaker directs the Clerk to notify the Senate of any change in House conferees. 110 CONG. REC. 3170, 88th Cong. 2d Sess., Feb. 19, 1964; 111 CONG. REC. 26967, 89th Cong. 1st Sess., Oct. 14, 1965; 117 CONG. REC. 34348, 92d Cong. 1st Sess., Sept. 30, 1971. And when the Senate changes a conferee, the House is so informed. 107 CONG. REC. 16845, 87th Cong. 1st Sess., Aug. 23, 1961; 111 CONG. REC. 27649, 89th Cong. 1st Sess., Sept. 20, 1965.

§ 7.5 A Member resigned as a House conferee on a bill which had been jointly referred to and reported by two committees in the House and for which conference members from both committees had been appointed without restriction; the Member declared that his resignation was based on the fact that the House conferees had agreed to a motion in conference limiting their participation to specified portions of the matters committed to conference. 121 CONG. REC. 35980, 35981, 94th Cong. 1st Sess., Nov. 11, 1975.

§ 7.6 In one instance, the House accepted the resignation as a conferee of a Member who had been convicted of a felony in a federal criminal trial, and who tendered his resignation pursuant to a resolution previously adopted expressing the sense of the House that Members convicted of felonies should refrain from participation in committee business. 120 CONG. REC. 32420, 93d Cong. 2d Sess., Sept. 24, 1974.

C. MOTIONS TO INSTRUCT CONFEREES

§ 8. In General; When in Order

§ 8.1 A motion to instruct the House managers at a conference is in order after the House has agreed to a conference and before the appointment of the conferees. 117 CONG. REC. 22406-13, 22429, 92d Cong. 1st Sess., June 28, 1971; 119 CONG. REC. 25539-41, 93d Cong. 1st Sess., July 24, 1973 [S. 1888]; 120 CONG. REC. 40174, 40175, 93d Cong. 2d Sess., Dec. 16, 1974 [S. 3934]. The motion is not in order until the House has voted to go to conference. 116 CONG. REC. 5722, 91st Cong. 2d Sess., Mar. 3, 1970 [H.R. 15931]. Only one motion to instruct conferees is in order at this stage. 114 CONG. REC. 15499, 90th Cong. 2d Sess., May 29, 1968 [H.R. 5037]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979 [H.R. 3919]. And while the previous question takes precedence over the motion to amend a motion to instruct conferees (119 CONG. REC. 25539-41, 93d Cong. 1st Sess., July 24, 1973 [S. 1888]), the motion to instruct is subject to amendment if the previous question is rejected. 114 CONG. REC. 15499, 15511, 90th Cong. 2d Sess., May 29, 1968 [H.R. 15414]; 117 CONG. REC. 36832-35, 92d Cong. 1st Sess., Oct. 19, 1971 [H.R. 8687]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 18, 1979. See also 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 29, 1979 [conf. rept. on S. 241], where the papers were relinquished by the House managers so the Senate could act first and thereby recommit the conference report in order to correct an omission in the report.

§ 8.2 The House may instruct its conferees to insist upon a portion of a House amendment to a Senate bill sent to conference. 119 CONG. REC. 25539-41, 93d Cong. 1st Sess., July 24, 1973 [S. 1888]. A motion to instruct House conferees to adhere to certain provisions in a

House-passed bill sent to conference is also in order. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 30, 1979 [H.R. 111]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 19, 1979 [H.R. 5296].

§ 8.3 A motion to instruct the House managers to disagree to one of several Senate amendments is in order notwithstanding the fact that the House has just disagreed to all Senate amendments in toto. 115 CONG. REC. 29315, 91st Cong. 1st Sess., Oct. 9, 1969 [H.R. 11612], holding that the adoption of a motion to disagree to the Senate amendments to a House bill and ask a conference with the Senate does not preclude a later motion to instruct the managers on the part of the House to insist on disagreement to a particular Senate amendment.

§ 8.4 If a conference report is recommitted with instructions on one item, the managers are not confined, in their new conference, to the subject matter of the instructions but may negotiate and report on all matters that have been in disagreement. 115 CONG. REC. 40454, 91st Cong. 1st Sess., Dec. 20, 1969 [H.R. 15149].

§ 8.5 While clause 2 Rule XX permits a motion to instruct House conferees to agree to a Senate amendment which would have been in violation of clauses 2 or 4 of Rule XXI if offered in the House, instructions to amend such Senate amendment should not be made in a manner not in order under House rules, e.g. to include unauthorized items (clause 2), to add further appropriations to a legislative bill (clause 4), or to include matter outside the scope of conferee's authority (clause 3 Rule XXVIII). 119 CONG. REC. 36835, 36847, 93d Cong. 1st Sess., Nov. 13, 1973 [H.R. 8877].

§ 8.6 A motion to instruct House managers at a conference is subject to the motion to table. 115 CONG. REC. 29315, 91st Cong. 1st Sess., Oct. 9, 1969 [H.R. 11612]; 117 CONG. REC. 27305-08, 27311, 92d Cong. 1st Sess., July 27, 1971 [H.R. 9272]; 118 CONG. REC. 34948, 92d Cong. 2d Sess., Oct. 11, 1972 [H.R. 16654]. When the previous question is moved on a pending motion to instruct House managers at a conference, the motion to lay the motion to instruct on the table is in order; if the motion to table is voted down, the question next occurs on ordering the previous question on the motion to instruct. 107 CONG. REC. 14957, 15001, 87th Cong. 1st Sess., Aug. 8, 1961 [H.R. 7576]; 115 CONG. REC. 39826-30, 91st Cong. 1st Sess., Dec. 18, 1969 [H.R. 13111]; 116 CONG. REC. 23325-28, 91st Cong. 2d Sess., July 9, 1970 [H.R. 17070].

§ 8.7 A motion to instruct the House managers at a conference has been withdrawn after debate thereon. 115 CONG. REC. 38543-45, 91st Cong. 1st Sess., Dec. 11, 1969 [H.R. 13270]. And the postponement of consideration of such a motion is permitted by unanimous consent. 123 CONG. REC. 19414, 19415, 95th Cong. 1st Sess., June 16, 1977 [H.R. 5262]. *Note:* Postponement to a day certain is not such action on a motion in the House as will prevent withdrawal of the motion when it comes up as unfinished business on the subsequent day.

§ 8.8 A motion to instruct may not direct the conferees to agree to something not committed to conference and outside the scope of their authority. Thus, where the House bill created an energy trust fund composed of revenues from a windfall profit tax on oil, such fund to be distributed as provided in subsequent legislation, and the Senate amendment created a similar trust fund which suggested but did not mandate allocation of the fund for specified purposes, and where the motion directed the House conferees to insist on a mandatory allocation of the revenues from the tax among specified purposes, some of which were not addressed in the Senate amendment, the Chair sustained a point of order against the motion. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 28, 1980.

§ 9. Recognition to Offer; Debate

§ 9.1 A motion to instruct the managers on the part of the House at a conference is debatable under the hour rule. 115 CONG. REC 38543-45, 91st Cong. 1st Sess., Dec. 11, 1969 [H.R. 13270]. The Member recognized to offer the motion controls the hour of debate. 116 CONG. REC. 23524, 91st Cong. 2d Sess., July 9, 1970 [H.R. 25628]; 117 CONG. REC. 36832-35, 92d Cong. 1st Sess., Oct. 19, 1971 [H.R. 8687]; 118 CONG. REC 7540, 92d Cong. 2d Sess., Mar. 8, 1972 [S. 659]. The Member controlling the hour may yield a portion of that time to another Member. 116 CONG. REC. 40271, 40288, 91st Cong. 2d Sess., Dec. 8, 1970 [H.R. 17755] (see also 108 CONG. REC. 18029, 18035, 87th Cong. 2d Sess., Aug. 29, 1962, where a Member in control of the hour of debate on a motion to instruct conferees yielded control of one half of his time to the opposition). Another Member may not obtain recognition from the Chair to speak in opposition to the motion (unless the previous question is rejected) or unless yielded time by the proponent. 124 CONG. REC. 28363, 95th Cong. 2d Sess., Sept. 7, 1978 [H.R. 12930].

§ 9.2 Recognition to offer a motion to instruct House conferees is the prerogative of the minority, and the Speaker recognizes the ranking minority member of the committee reporting the bill when that member seeks recognition to offer the motion. 117 CONG. REC. 36832-35, 92d Cong. 1st Sess., Oct. 19, 1971 [H.R. 8687]. See also 120 CONG. REC. 40174, 40175, 93d Cong. 2d Sess., Dec. 16, 1974 [S. 3934].

§ 9.3 A Member controlling the time for debate on his motion to instruct House managers at a conference loses the floor if he yields for an amendment. 111 CONG. REC. 2092, 2099, 2105, 89th Cong. 1st Sess., Feb. 8, 1965 [H.J. Res. 234].

§ 9.4 If the previous question is voted down on a motion to instruct the managers on the part of the House, the motion is open to amendment and the Speaker may recognize a Member opposed to ordering the previous question to control the time and offer an amendment. 114 CONG. REC. 15499, 15511, 90th Cong. 2d Sess., May 29, 1968 [H.R. 15414].

§ 9.5 The hour of debate time on a motion to instruct is inapplicable where a motion to lay that motion on the table is adopted prior to debate. 122 CONG. REC. 27832, 94th Cong. 2d Sess., Aug. 26, 1976 [H.R. 8603].

§ 10. Effect of Instructions

§ 10.1 Instructions by the House to its conferees are advisory in nature and are not binding as a limitation of their authority (114 CONG. REC. 15499, 90th Cong. 2d Sess., May 29, 1968 [H.R. 5037]); and there is no rule of the House requiring conferees to seek further instructions if they are unable to comply with instructions suggested to them. 118 CONG. REC. 20282, 92d Cong. 2d Sess., June 8, 1972 [H. Rept. No. 92-1085 on S. 659].

§ 10.2 While "instructed" conferees are not the same as "free" conferees, the instructions are not binding in such manner as to permit a point of order against a conference report not in accord therewith. 123 CONG. REC. 19697, 19698, 95th Cong. 1st Sess., June 17, 1977 [H.R. 5262]. For this reason, the Speaker may not rule out a report as in contravention of instructions imposed on House conferees; it is for the House to determine by its vote on the report whether its managers have disregarded their instructions. 118 CONG. REC. 20282, 92d Cong. 2d Sess., June 8, 1972 [H. Rept. No. 92-1085 on S. 659].

§ 11. Where Conferees Fail to Act

§ 11.1 Where conferees have been appointed for 20 calendar days and have failed to file a report, a motion to instruct the House managers at the conference is in order, and is privileged under clause 1(b) Rule XXVIII. 118 CONG. REC. 16838-42, 92d Cong. 2d Sess., May 11, 1972 [S. 659]. 122 CONG. REC. 31876, 94th Cong. 2d Sess., Sept. 22, 1976 [motion to instruct conferees on H.R. 12572]. *Note:* Even though the conferees have reached agreement, a motion to instruct the managers on the part of the House is in order if the conference report has not yet been filed.

§ 11.2 The purpose of Rule XXVIII clause 1(b) is to permit the House to retain some control over the deliberations of its agents in conference where they have failed to reach an agreement within the designated period, and any number of proper motions to instruct are in order after conferees have not reported within 20 calendar days. The precedent (§ 8, supra) which precludes more than one motion in the House to instruct conferees prior to their appointment by the Speaker is not applicable to motions to instruct (or discharge and appoint new) conferees under the rule when they have failed to report to the House within 20 days from their appointment. 120 CONG. REC. 24448, 24449, 93d Cong. 2d Sess., July 22, 1974 [H.R. 69]. Indeed, a motion to instruct House conferees who have failed to report for 20 days is in order notwithstanding the previous adoption by the House of the same motion to instruct at the time the bill was sent to conference. 118 CONG. REC. 16838-42, 92d Cong. 2d Sess., May 11, 1972 [S. 659].

D. CONFERENCE REPORTS

§ 12. Privileged Status; Corrections

§ 12.1 The filing of a conference report while the House is in session is a privileged matter and the presentation of such a report does not require unanimous consent. 114 CONG. REC. 25027-43, 90th Cong. 2d Sess., Aug. 1, 2, 1968, holding that an objection would not lie to the filing of a conference report, since the presentation of such a report from the floor is a privileged matter under Rule XXVIII.

§ 12.2 *Note:* Notwithstanding recommittal of a conference report to a committee of conference with instructions, the subsequent conference report is filed as privileged, given a new number and otherwise treated as a new and separate report. See 109 CONG. REC. 8502, 88th Cong. 1st Sess., May 14, 1963 [H. Rept. No. 290, accompanying H.R. 5517].

§ 12.3 A conference report is called up as privileged following agreement to a unanimous-consent request permitting it to be called the same day reported. 109 CONG. REC. 19942, 19954, 88th Cong. 1st Sess., Oct. 21, 1963 [H. Rept. No. 862, conf. rept. on S. 1576].

§ 12.4 By unanimous consent, the House considered and agreed to a concurrent resolution authorizing the Clerk to make a technical correction in a conference report already agreed to, during the enrollment of a House bill. 118 CONG. REC. 34643, 92d Cong. 2d Sess., Oct. 10, 1972 [H. Con. Res. 717].

§ 12.5 Where a technical error appeared in the statement of the managers accompanying a conference report, the permanent Record was, by unanimous consent, corrected to show the true intent of the conferees as reflected by the language in the conference report. 112 CONG. REC. 15304-07, 89th Cong. 2d Sess., July 12,

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1966. *Note:* The conference report on S. 2950 was filed on June 30th and printed in the Record of that date. The error in the statement of the managers was a committee error, not a printing error.

§ 13. Preparation and Filing of Report

§ 13.1 Reports of House conference committees must be printed, and are to be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement must be sufficiently detailed and explicit to inform the House as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate. Clause 1(c) Rule XXVIII. *Note:* Sufficiency of the joint statement is a matter for the House to determine in its vote on the conference report, and not for the Speaker to determine on a point of order.

§ 13.2 A conference report on a bill is filed from the floor, and in one instance this was done during the consideration of a resolution reported from the Committee on Rules waiving points of order against consideration of any conference report on the bill. 121 CONG. REC. 8899, 94th Cong. 1st Sess., Mar. 26, 1975 [H. Res. 358].

§ 13.3 The requirement of Rule XXVIII clause 2 that a conference report and accompanying statement be printed in the *Congressional Record* may be waived by unanimous consent (105 CONG. REC. 11961, 86th Cong. 1st Sess., June 26, 1959 [H.R. 7523]), and is not applicable during the last six days of the session. 116 CONG. REC. 43804-08, 43813-15, 91st Cong. 2d Sess., Dec. 29, 1970 [H.R. 19590].

§ 13.4 Where conferees from two standing committees of the House were appointed to consider separate titles of a bill, their report was filed by the chairman of the committee which had originally reported the bill to the House. 116 CONG. REC. 15202–17, 91st Cong. 2d Sess., May 12, 1970 [conf. rept. on H.R. 14465].

§ 13.5 Minority views are not in order on a conference report. But the majority of the managers may, in the statement accompanying the report, indicate exceptions taken by certain conferees. 113 CONG. REC. 34721, 35135-37, 90th Cong. 1st Sess., Dec. 4, 6, 1967 [H.R. 6111]. See also § 14, infra.

§ 13.6 By unanimous consent, the House may permit the managers on the part of the House to have until midnight on a certain day to file a conference report, the report to be printed in the *Congressional Record* even though the House is not in session on that day. 105 CONG. REC. 14742, 86th Cong. 1st Sess., July 30, 1959; 107 CONG. REC. 14544, 87th Cong. 1st Sess., Aug. 3, 1961; 108 CONG. REC. 14841, 87th Cong. 2d Sess., July 26, 1962. Where the House grants permission for the filing of a conference report on a day when the House is not in session, the report is printed under a separate heading in the *Congressional Record* published that day if the Senate is in session. 122 CONG. REC. 804, 94th Cong. 2d Sess., Jan. 23, 1976.

§ 13.7 A conference report having been improperly filed on a bill on which the Senate had neglected to formally appoint its conferees (although Senate "conferees" had nevertheless met with House managers and signed the report), the House conferees refiled the conference report following notification from the Senate of its belated appointment of conferees. 122 CONG. REC. 33831, 34202, 94th Cong. 2d Sess., Sept. 30, 1976 [conf. rept. on S. 3131].

§ 13.8 Unanimous consent is required for a Member to file from the floor a conference report on a bill on which he is not a conferee.

123 CONG. REC. 38271, 95th Cong. 1st Sess., Dec. 1, 1977 [H.R. 9418].

§ 14. Signatures

§ 14.1 A conference report is received if signed by a majority of the managers of each House, and the Speaker will not look behind the signatures to determine whether the report has incorporated all the agreements informally made in conference. 119 CONG. REC. 42034, 42035, 93d Cong. 1st Sess., Dec. 17, 1973 [conf. rept. on S. 1435]. The Speaker overruled a point of order against consideration of a conference report, which had been properly signed by a majority of the conferees, although the Member raising the point of order alleged that the form of the report did not comport with a motion agreed to in an open conference meeting. 122 CONG. REC. 33019, 94th Cong. 2d Sess., Sept. 28, 1976 [conf. rept. on S. 521]. See also § 1, supra.

§ 14.2 *Note:* Rule XXVIII clause 1(c) requires the joint statement to contain only an explanation "as to the effect which the propositions contained in such report will have upon the measure," and not the views of individual conferees. However, the conferees may file a joint statement with the report explaining exceptions taken by certain House conferees to portions of the agreement contained in the report. 121 CONG. REC. 39097, 94th Cong. 1st Sess., Dec. 8, 1975 [H.R. 3474]. And where House conferees have considered numbered Senate amendments, they have been permitted to note following their signatures on the conference report and statement that they are excepting from certain amendments, so long as a majority of House conferees have agreed on each numbered amendment. See, for example, 109 CONG. REC. 7800, 8037, 88th Cong. 1st Sess., May 6, 8, 1963, where two House conferees (minority members) signed a conference report with a notation following their names that they excepted from one of the Senate amendments upon which the other conferees had reached agreement.

§ 14.3 Managers on the part of the House, appointed from two different standing committees to confer with Senate conferees on separate features of a bill, signed both the conference report and the joint statement as two distinct groups, following the respective portions of the report and statement to which they had agreed. 116 CONG. REC. 15202-17, 91st Cong. 2d Sess., May 12, 1970 [H.R. 14465]; 117 CONG. REC. 46791-801, 92d Cong. 1st Sess., Dec. 14, 1971 [S. 382].

§ 14.4 While under the precedents the Speaker would not normally sustain a point of order against a conference report signed by a majority of House conferees based upon irregularities at the conference meeting, the provisions of clause 6 Rule XXVIII—requiring conference meetings to be open to the public unless otherwise ordered by roll call vote of the House—mandate a formal meeting of properly appointed conferees prior to signing of the conference report. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Mar. 25, 1980 [conf. rept. on S. 662].

§ 15. Limitations on Scope of Report

§ 15.1 A point of order will lie against a conference report on the ground that the conferees had agreed to a provision which was beyond the limits of their authority. 113 CONG. REC. 35811 et seq., 90th Cong. 1st Sess., Dec. 11, 1967 [H.R. 7977].

§ 15.2 While House conferees may not, under Rule XXVIII clause 3, include in a conference report a new topic or issue not committed to conference by either House, it is in order to include language clarifying and limiting the duties imposed on an executive official where that modification does not expand upon the

authority conferred under the version of the bill as passed by one House or contained in existing law (the position of the other House). 121 CONG. REC. 25517, 94th Cong. 1st Sess., July 29, 1975 [conf. rept. on H.R. 3130].

§ 15.3 Where one House has amended an existing law and the other House has implicitly taken the position of existing law by remaining silent on the subject, the scope of differences committed to conference may properly be measured between those issues presented in the amending language and comparable provisions of existing law (124 CONG. REC. 5010, 95th Cong. 2d Sess., Feb. 28, 1978 [conf. rept. on H.R. 3816]). However, the inclusion in a conference report of new matter not specifically contained in the amending version and not demonstrably repetitive of existing law may be ruled out as an additional issue not committed to conference in violation of Rule XXVIII clause 3. 120 CONG. REC. 41849, 41850, 93d Cong. 2d Sess., Dec. 20, 1974 [conf. rept. on H.R. 620]. In such cases, the Speaker may examine existing law to determine whether House conferees have remained within the scope of the differences committed to conference. 122 CONG. REC. 10803, 94th Cong. 2d Sess., Apr. 13, 1976 [conf. rept. on S. 644]. In this instance, where a Senate bill authorized the Consumer Product Safety Commission to represent itself in *any court action* if the Attorney General did not agree to do so and the House amendment merely retained existing law—which authorized the Commission to represent itself in "any court action . . . with the concurrence of the Attorney General"—the House conferees did not exceed their authority (under Rule XXVIII clause 3) in authorizing the Commission to prosecute any *criminal* action with the concurrence of the Attorney General, since the Commission's authority under existing law already included prosecution of criminal actions.

§ 15.4 Rule XXVIII clause 3, limiting the authority of House conferees where one House has passed a bill of the other House with an amendment in the nature of a substitute, prohibits the inclusion in a conference report of additional topics not committed to conference by either House or which are beyond the scope of the differences committed to conference, and the precedents predating the adoption of this rule in 1971, which conferred broad authority on House conferees in such a situation, must be read in light of these explicit restrictions. 122 CONG. REC. 32719-21, 94th Cong. 2d Sess., Sept. 27, 1976 [H.R. 12168] (where the House conferees exceeded their authority under Rule XXVIII clause 3 by agreeing to a Senate provision with an amendment prohibiting certain citizens' suits where the state chief law enforcement officer was pursuing judicial remedies—a new exception which was not contemplated in either House's version). Similarly, where one House strikes out of a bill of the other House all after the enacting clause and inserts a new text, House conferees, under clause 3 of Rule XXVIII, may not include in their report a modification of a proposition which is beyond the scope of that proposition as committed to conference. 117 CONG. REC. 46596-602, 92d Cong. 1st Sess., Dec. 13, 14, 1971 [S. 2891] (holding that where a Senate bill included a provision authorizing a pay comparability adjustment for federal employees compensated under "statutory" pay systems, and the House amendment contained no comparable provision, House conferees exceeded their authority by including in their report language which broadened the scope of the Senate provision by deleting the term "statutory"). *Note:* As stated in argument on the point of order, the conference report also included a provision which raised the maximum pay limitation applicable to congressional employees. This provision was not in the Senate bill or in the House amendment, and provided further grounds for sustaining the point of order.

§ 15.5 A mere change in phraseology in a conference report from language in either the House or Senate version may be permitted to achieve legislative consistency where it is not shown that its effect is to broaden the scope of the language beyond the differences committed to conference. 121 CONG. REC. 12752, 12753, 94th Cong. 1st Sess., May 1, 1975 [conf. rept. on H.R. 6096]. Where one House strikes all after the enacting clause of a comprehensive bill of the other House and inserts an amendment in the nature of a substitute equally comprehensive in scope, the conferees may eliminate specific words or phrases contained in either version and add words or phrases not included in either version so long as they remain within the scope of the differences committed to conference and do not incorporate additional topics, issues, or propositions not committed to conference. Thus, the Speaker held that House conferees on the Outer Continental Shelf Lands Act amendments had not exceeded their authority under Rule XXVIII clause 3 where the points of order concentrated on isolated words and phrases out of context without relating them to the conference agreement as a whole and to the interrelation of concepts therein. 122 CONG. REC. 33023, 94th Cong. 2d Sess., Sept. 28, 1976 [conf. rept. on S. 521].

§ 15.6 Where a House amendment in the nature of a substitute authorized endowment and operating payments for specific institutions of higher education, and the Senate substitute therefor (a) conferred land-grant college status on those institutions; (b) changed the form of the authorizations to include a direct appropriation; and (c) included conforming amendments to other legislation related to land-grant status, House conferees remained within the scope of the differences between the two versions as required by clause 3 Rule XXVIII by including in their report the Senate provision conferring land-grant status and a reduced House figure for the endowment payment. 118 CONG. REC. 20280, 92d Cong. 2d Sess., June 8, 1972 [conf. rept. on S. 659], holding also that where a title of a House bill reported from the Committee on Education and Labor conferring land-grant college status on two schools had been stricken out on a point of order during consideration of that bill in Committee of the Whole (under a special procedure permitting points of order based on grounds relating to the jurisdiction of House committees), House conferees were not for that reason precluded from considering that provision, which had been included in the Senate substitute for the House amendment in the nature of a substitute for a Senate bill in conference.

§ 15.7 Where one House authorizes certain funds for a fiscal year and the other House authorizes a lesser amount for that year as well as additional funds for the subsequent fiscal year, and neither version contains an overall total amount, House conferees do not exceed the scope of their authority by including in their report the amount authorized by one House for the first year and the amount authorized by the other House for the subsequent year, even though the total authorization reflected in the report is greater than that computed in either version. 118 CONG. REC. 20281, 92d Cong. 2d Sess., June 8, 1972 [conf. rept. on S. 659].

§ 15.8 Where a House bill waived certain provisions of law to permit use of funds already appropriated to the Defense Department for evacuation programs referred to in section 2 of the bill, and the Senate amendment contained no directly comparable provision, House conferees did not exceed their authority under Rule XXVIII clause 3 by waiving the same provisions of law to permit use of such funds for evacuation programs under the entire bill—since the evacuation programs covered by the conference report were the same as those in section 2 of the House bill and the new language represented merely a conforming change made necessary by references

to those programs made throughout the conference report. 121 CONG. REC. 12752, 12753, 94th Cong. 1st Sess., May 1, 1975 [conf. rept. on H.R. 6096].

§ 15.9 Where a Senate bill added a new weight limit category for certain vehicles to the three categories contained in existing law, and the House amendment in the nature of a substitute contained no comparable provision—thereby implicitly retaining the existing category limits and "grandfather clause" exceptions but setting no separate limits on the new weight category—House conferees were permitted to apply another "grandfather clause" exception to the new weight category which fell between the Senate's new limit and the House's absence thereof. The Speaker also held that House conferees did not exceed their authority under Rule XXVIII clause 3 by changing the effective date of the "grandfather clause" to the date of the enactment of the bill. 120 CONG. REC. 40906, 93d Cong. 2d Sess., Dec. 18, 1974 [conf. rept. on S. 3934].

§ 15.10 Rule XX clause 2, which precludes House conferees from agreeing to Senate amendments providing for appropriations in a conference report absent specific authority, applies only to Senate amendments which are sent to conference and not to appropriations contained in Senate legislative bills. 122 CONG. REC. 21633, 94th Cong. 2d Sess., June 30, 1976 [conf. rept. on S. 3295]. A point of order against an appropriation in a conference report on a legislative bill will only lie under Rule XX clause 2 if that provision was originally contained in a Senate amendment and if House conferees were without specific authority to agree to that amendment, and will not lie against a provision permitted by the House to remain in its own bill. 121 CONG. REC. 12752, 12753, 94th Cong. 1st Sess., May 1, 1975 [conf. rept. on H.R. 6096]. Rule XX clause 2 is likewise inapplicable to a conference report on a Senate *bill* which recommends that the Senate concur in a House amendment with an amendment, as the conference report represents only a proposed compromise and not a Senate amendment originally committed to conference. 122 CONG. REC. 21633, 94th Cong. 2d Sess., June 30, 1976 [conf. rept. on S. 3295].

§ 15.11 Although Rule XXI clause 5 permits a point of order against an appropriation in a legislative bill or amendment to be raised "at any time" during the initial consideration of the bill or amendment under the five-minute rule in the House, a point of order against similar language permitted to remain in the House version and included in a conference report on that bill will not lie, since the only rule prohibiting such inclusion (Rule XX clause 2) is limited to language originally contained in a Senate amendment where the House conferees have not been specifically authorized to agree thereto. 121 CONG. REC. 12752, 12753, 94th Cong. 1st Sess., May 1, 1975 [conf. rept. on H.R. 6096].

§ 15.12 A special rule permitting points of order to be raised against provisions in a House bill on jurisdictional grounds does not thereafter serve as a restriction on the authority of House conferees to incorporate similar provisions, which had been in a Senate substitute, as part of the conference report. 118 CONG. REC. 29280, 92d Cong. 2d Sess., June 8, 1972 [conf. rept. on S. 659].

§ 15.13 Where funds have been appropriated by previous statute for a certain purpose, a provision in a legislative bill authorizing the use, without a subsequent appropriation, of those funds for a new purpose constitutes an appropriation prohibited by clause 5 of Rule XXI, and if in a Senate amendment included in a conference report violates clause 2 of Rule XX, prohibiting House conferees from agreeing to such a provision absent authority from the House. *Note:* The prohibition contained in Rule XXI clause 5 also applies where a motion is offered to recede and concur with an amendment carrying an appropriation in a

Senate amendment to a House legislative bill. See 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [H.R. 5612].

E. CONSIDERATION AND DISPOSITION OF REPORT

§ 16. In General; Calling Up as Privileged

§ 16.1 The consideration of conference reports is privileged business, and the calling up of such a report does not require unanimous consent after the report has been printed in the Record (105 CONG. REC. 17769, 86th Cong. 1st Sess., Sept. 2, 1959), if the report has been available for three days as required by Rule XXVIII clause 2(a). See 120 CONG. REC. 21734, 21735, 93d Cong. 2d Sess., June 28, 1974 [conf. rept. on H.R. 7724]. Under that rule conference reports may be called up as privileged on the third day, not including Saturdays, Sundays, and holidays, after they are filed, not counting the day of filing. (See also § 21, infra.) The rule also prohibits consideration unless copies of the report and statement have been available for two hours. An objection to a unanimous-consent request to read the joint statement in lieu of the report does not prevent consideration of the report. 120 CONG. REC. 21734, 21735, 93d Cong. 2d Sess., June 28, 1974 [conf. rept. on H.R. 7724].

§ 16.2 The question of consideration may be raised against a conference report before the Chair entertains points of order against the report. 122 CONG. REC. 33018, 33019, 94th Cong. 2d Sess., Sept. 28, 1976 [S. 521]. *Note:* Ordinarily, the question of consideration should be put first on the ground that it is useless to argue points of order if the House is not going to consider the report; but a point of order should be decided before the question of consideration where the point of order is directed to the issue of whether the matter is privileged to come up for consideration in the first instance. If the further consideration of a report has been postponed to a date certain, it is in order to raise the question of consideration against the conference report when it is laid before the House as unfinished business. *Id.* at p. 33018.

§ 16.3 A conference report may be withdrawn from consideration in the House by the Member calling it up at any time before action thereon. 123 CONG. REC. 23460, 95th Cong. 1st Sess., July 18, 1977 [H.R. 6138].

§ 16.4 The consideration of conference reports is a matter of high privilege and takes precedence over the consideration of unfinished business. 124 CONG. REC. 33473, 95th Cong. 2d Sess., Oct. 4, 1978. Consideration of conference reports also takes precedence over the calling of the Consent Calendar. 116 CONG. REC. 13987 et seq., 91st Cong. 2d Sess., May 4, 1970. But the consideration of a veto message from the President is a matter of the highest privilege, and may interrupt consideration of a conference report and amendments in disagreement if the previous question has not been ordered. 124 CONG. REC. 33704, 95th Cong. 2d Sess., Oct. 5, 1978 [H.R. 12928].

§ 16.5 The consideration of a conference report on a bill which has the effect of rescinding certain budget authority is governed by the general House rules applicable to conference reports, and not by the special procedures contained in the Impoundment Act of 1974 for the consideration of "rescission bills" within the meaning of the Act. It follows that Congress is not precluded by § 1017 of that Act from taking up a bill (or a conference report thereon) rescinding budget authority and considering it outside of the 45-day time frame established in that law for the initial privileged consideration of that category of bills which approve Presidentially proposed rescissions. 121 CONG. REC. 8485, 94th Cong.

1st Sess., Mar. 25, 1975 [conf. rept. on H.R. 3260] (holding that, while the expiration of 45 calendar days from the receipt of the President's proposed rescission of budget authority would preclude the initial (privileged) consideration of a bill approving those rescissions (as defined in the act), the subsequent consideration of a conference report on such bill is in order in accordance with the rules of the House following the lapse of that period).

§ 16.6 A conference report may be called up pursuant to the provisions of a special rule. 109 CONG. REC. 13816, 13822-25, 88th Cong. 1st Sess., July 31, 1963 [conf. rept. on H.R. 5207]. The special rule may waive points of order against the report (§ 20, infra). In one instance, the special rule waived points of order against the report and also specified that at the conclusion of debate, separate motions to strike out two sections of the report (containing nongermane Senate matter) would be in order and that each motion would be debatable for 40 minutes. It also provided that if neither motion were agreed to the previous question would be ordered on the report. 121 CONG. REC. 40081, 94th Cong. 1st Sess., Dec. 11, 1975 [H. Res. 919]. *Note:* Since separate votes were permitted on two sections of the report, the rejection of either section would be, under § 549 of Jefferson's Manual, a rejection of the entire conference report (Speaker Albert, Nov. 10, 1971), but the rule was interpreted to permit votes on both motions to reject prior to considering the conference report itself as rejected.

§ 16.7 Conference reports on several bills may be called up pursuant to a special rule previously adopted by the House providing that the reports be considered en bloc in the House. 124 CONG. REC. 38350, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 4018, H.R. 5037, H.R. 5146, H.R. 5289, and H.R. 5263]. In this instance, where the House had passed one bill containing provisions on several aspects of energy policy, and the Senate, in lieu of amending that bill, had amended five other unrelated House bills to separately include its versions of those aspects of energy policy, and five conference reports had eventually been filed on the Senate amendments and House amendments thereto separately committed to conference, the Committee on Rules reported a special rule (H. Res. 1434) permitting concurrent consideration of those five conference reports and permitting one indivisible vote on their final adoption.

§ 17. Who May Call Up; Reading

§ 17.1 A conference report may be called up for consideration in the House by the senior manager on the part of the House at the conference, and he may be recognized to do so even though he did not sign the report and was in fact opposed to it. 113 CONG. REC. 35144-51, 35163, 90th Cong. 1st Sess., Dec. 6, 1967 [conf. rept. on H.R. 12144]. If the senior House conferee is unable to be present on the floor to call up the report, the Speaker may recognize a junior member of the conference committee. 115 CONG. REC. 40982-84, 91st Cong. 1st Sess., Dec. 23, 1969. The Speaker may also extend recognition to the chairman or ranking majority member of the committee [who was also a conferee] to call up a conference report. 113 CONG. REC. 19032, 90th Cong. 1st Sess., July 17, 1967. *Note:* In this instance, where the chairman of the committee was opposed to the legislation, and had not handled the resolution when it was under debate in the House, the Speaker recognized the ranking majority member to call up this report.

§ 17.2 The 96th Congress adopted provisions amending Rule XXVIII clause 2 to dispense with the reading of conference reports and Senate amendments reported in disagreement when they have been available for three days. 125 CONG. REC. p....., 96th Cong. 1st Sess., Jan. 15, 1979 [H. Res. 5]. Pursuant to this rule,

any conference report (or amendment reported from conference in disagreement) which was printed in the *Congressional Record* when filed and which is called up for consideration three or more days thereafter, is considered as having been read when called up. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Mar. 27, 1979 [H.R. 2439]. If it has not been available for the three-day period, it must be read in full when called up for consideration. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., May 23, 1979 [H. Con. Res. 107]. Dispensing with the reading by unanimous consent or by special rule, see § 17.3, infra.

§ 17.3 The reading of a conference report which has been called up for consideration may be dispensed with by unanimous consent (123 CONG. REC. 26532, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 6689]) or by adoption of a resolution (reported from the Committee on Rules) providing that the conference report be considered as read. 123 CONG. REC. 26103, 95th Cong. 1st Sess., Aug. 2, 1977 [H. Res. 731]; 123 CONG. REC. 27067, 95th Cong. 1st Sess., Aug. 4, 1977 [H. Res. 733]. Likewise, by unanimous consent, the further reading of a conference report may be dispensed with and further consideration of the report postponed to become the unfinished business on a subsequent date certain. 122 CONG. REC. 32103, 94th Cong. 2d Sess., Sept. 23, 1976 [conf. rept. on S. 521]; 122 CONG. REC. 34224, 34225, 94th Cong. 2d Sess., Sept. 30, 1976 [conf. rept. on H.R. 12571].

§ 17.4 The statement of the managers accompanying a conference report is not read after the reading of the report itself. And although the statement may by unanimous consent be read in lieu of the report, if when objection is made to the reading of the statement in lieu of the conference report, the Clerk reads the report. 107 CONG. REC. 21521, 87th Cong. 1st Sess., Sept. 27 [Legislative Day, Sept. 25], 1961; 123 CONG. REC. 23460, 95th Cong. 1st Sess., July 18, 1977 [H.R. 6138].

§ 18. Effect of Custody of Official Papers

§ 18.1 *Note:* The House agreeing to a conference normally takes possession of the original papers at the conclusion of a successful conference and acts first on the report. 109 CONG. REC. 25249, 88th Cong. 1st Sess., Dec. 19, 1963. However, where the conferees report in disagreement, the original papers do not change hands but remain in the possession of the House that asked for the conference. In the event that the matter in disagreement is an amendment of the House which requested the conference, the papers may be surrendered to the other House to permit it to act first on (to amend) the amendment. 121 CONG. REC. 31510, 32064, 94th Cong. 1st Sess., Oct. 2, 7, 1975 [H.R. 8121]. In this instance, since the Senate could not amend its own amendment, the House conferees were permitted to take the papers and thus act first. See also 117 CONG. REC. 43835, 92d Cong. 1st Sess., Dec. 1, 1971, where the Senate managers (who had asked for the conference) carried the papers to conference and filed them with the Senate conference report, but later voluntarily relinquished them so that the House could entertain a motion to recommit.

§ 18.2 The House in possession of the official papers ordinarily acts first on a conference report. Thus, the Senate, having asked for a conference, retained the official papers at the successful conclusion of the conference [instead of following the customary practice of surrendering them to the agreeing body] and acted first on the report. 111 CONG. REC. 27698-708, 89th Cong. 1st Sess., Oct. 20, 1965.

§ 18.3 *Note:* When the Senate acts first on a conference report, it is the Senate version of the report (the copy of the conference report signed first by the Senate managers) which is messaged to the House with the other original papers and is before the House for action.

§ 18.4 In one instance in 1980, the Senate further insisted on its amendment to a House amendment to a Senate amendment to a House joint resolution (where the joint resolution had been committed to conference by both Houses but the Senate, being in possession of the papers, had by unanimous consent further insisted on its amendment, discharging the conferees). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Dec. 15, 1980 [H.J. Res. 637].

§ 19. Points of Order

§ 19.1 Where a conference report, pursuant to Rule XXVIII clause 2 or a special rule, is considered as having been read when called up, a point of order against the report should be made when the report is called up for consideration and before debate thereon. 124 CONG. REC. 36459, 95th Cong. 2d Sess., Oct. 12, 1978. Where a reading is required because the report has not been available, a point of order against the report is not entertained until after the report has been read, and cannot be reserved during a reading of the report. 121 CONG. REC. 40671, 94th Cong. 1st Sess., Dec. 15, 1975 [S. 622]. The point of order must be made or reserved after the reading of the report has been completed (107 CONG. REC. 21521, 87th Cong. 1st Sess., Sept. 27, 1961; 115 CONG. REC. 40262, 40445, 91st Cong. 1st Sess., Dec. 19, 20, 1969; 122 CONG. REC. 34224, 34225, 94th Cong. 2d Sess., Sept. 30, 1976 [H.R. 12571]), or has been dispensed with by unanimous consent (121 CONG. REC. 40675, 94th Cong. 1st Sess., Dec. 15, 1975 [S. 622]; 122 CONG. REC. 34224, 34225, 94th Cong. 2d Sess., Sept. 30, 1976 [H.R. 12571]; 123 CONG. REC. 26532, 95th Cong. 1st Sess., Aug. 3, 1977 [H.R. 6689]). The point of order comes too late after debate has been had on the report. 118 CONG. REC. 37067, 92d Cong. 2d Sess., Oct. 18, 1972. It must be made or reserved before the reading of the joint statement of the managers (105 CONG. REC. 11599, 11615, 86th Cong. 1st Sess., June 23, 1959; 117 CONG. REC. 46596, 92d Cong. 1st Sess., Dec. 13, 1971), and if by unanimous consent the joint statement is to be read in lieu of the report, the point of order must be made or reserved before the reading of the statement (115 CONG. REC. 39704, 91st Cong. 1st Sess., Dec. 17, 1969; 118 CONG. REC. 1076, 92d Cong. 2d Sess., Jan. 25, 1972; 118 CONG. REC. 20278, 92d Cong. 2d Sess., June 8, 1972).

§ 19.2 The Chair may rule on all points of order raised against a conference report, whether they are made separately or at one time. 118 CONG. REC. 20278-80, 92d Cong. 2d Sess., June 8, 1971 [conf. rept. on S. 659]. But the Chair entertains and rules upon points of order which, if sustained, will vitiate the entire conference report (as under the Congressional Budget Act) before entertaining points of order against portions of a conference report under Rule XXVIII clause 4, which, if sustained, merely permit a motion to reject the nongermane portion of the report. 122 CONG. REC. 32099, 94th Cong. 2d Sess., Sept. 23, 1976 [H.R. 10309]. Once a motion to reject a nongermane portion of a conference report has been adopted by the House pursuant to Rule XXVIII clause 4, a point of order against the entire conference report under clause 3 of that rule comes too late if the Speaker has recognized a Member to offer a motion to recede and concur in the pending Senate amendment with an amendment consisting of that portion of the conference report not rejected. 121 CONG. REC. 40711, 40712, 94th Cong. 1st Sess., Dec. 15, 1975 [conf. rept. on S. 622].

§ 19.3 Where a conference report is considered as having been read and further proceedings postponed by unanimous consent, points of order against the report may still be raised when the report is before the House as unfinished business. 122 CONG. REC. 32103, 94th Cong. 2d Sess., Sept. 23, 1976 [conf. rept. on S. 521].

§ 19.4 Where a point of order against a conference report is overruled, a second point of order may be pressed against the report providing that debate on the report has not intervened. 115 CONG. REC. 40262, 40445-48, 91st Cong. 1st Sess., Dec. 19, 20, 1969 [conf. rept. on H.R. 15149].

§ 19.5 Rule XXVIII clause 4(b) provides that if the Speaker sustains a point of order against a nongermane portion of a conference report, it shall then be in order to entertain a privileged motion to reject that portion of the conference report, and other points of order cannot be made until after dispositon of the motion to reject. 121 CONG. REC. 40677, 94th Cong. 1st Sess., Dec. 15, 1975 [con.. rept. on S. 622].

§ 19.6 When a conference report is ruled out of order, the bill and amendments are again before the House and, the stage of disagreement having been reached, motions relating to amendments and further conference are in order. 117 CONG. REC. 46596-602, 92d Cong. 1st Sess., Dec. 13, 14, 1971 [conf. rept. on S. 2891]. Thus, when a point of order against a conference report is sustained on the ground that the conferees have exceeded their authority, the amendment or amendments in disagreement are then before the House for action. 113 CONG. REC. 35811-33, 35841, 90th Cong. 1st Sess., Dec. 11, 1967; 120 CONG. REC. 30050-52, 93d Cong. 2d Sess., Aug. 22, 1974 [H.R. 12628]. And where a conference report has been ruled out on a point of order, the report cannot then be "withdrawn" from further consideration. 122 CONG. REC. 32100, 94th Cong. 2d Sess., Sept. 23, 1976 [H.R. 10309].

§ 19.7 A point of order against a proposed motion to dispose of a Senate amendment reported from conference in disagreement may only be made when that motion is offered following disposition of the conference report (125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 12, 1979 [H.R. 5359]), and after the motion has been read or the reading dispensed with by unanimous consent. 121 CONG. REC. 40711, 40712, 94th Cong. 1st Sess., Dec. 15, 1975 [conf. rept. on S. 622].

§ 19.8 Where a conference report on a Senate amendment is ruled out of order because the conferees agreed to a provision outside the scope of the differences before them, the House may proceed to consider the Senate amendment and concur therein with a germane amendment which includes the same provision as that subject to the point of order. 113 CONG. REC. 35881-33, 35841, 90th Cong. 1st Sess., Dec. 11, 1967. In a similar instance, the manager of the bill moved to recede and concur in the Senate amendment in disagreement with an amendment consisting of the precise text of the ruled-out conference report (such motion not being prohibited by Rule XXVIII clause 3). 122 CONG. REC. 32722, 94th Cong. 2d Sess., Sept. 27, 1976 [conf. rept. on H.R. 12168].

§ 19.9 A point of order that a conference report fails to include a provision allegedly agreed on in conference will not lie where a majority of the conferees of both Houses have signed the report and where the House conferees had the authority, under clause 3 Rule XXVIII, to omit that provision. 119 CONG. REC. 42034, 42035, 93d Cong. 1st Sess., Dec. 17, 1973 [conf. rept. on S. 1435]. In this instance, the Speaker indicated that the omission of the language allegedly agreed to in conference could be corrected following adoption of the report by the consideration by unanimous consent of a concurrent resolution authorizing insertion of that provision in the enrollment.

§ 19.10 The Speaker held that an explanation of conference intent as expressed in the joint statement could not form the basis of a point of order against the conference report under Rule XXVIII clause 3, since points of order under that rule are confined to language in the conference report and do not extend to expres-

sions of intent in the joint statement. 122 CONG. REC. 33023, 94th Cong. 2d Sess., Sept. 28, 1976 [conf. rept. on S. 521].

§ 19.11 The Chair sustained a point of order against a conference report on a House bill with a Senate amendment, where the conferees had agreed to a provision of the Senate amendment constituting an appropriation on a legislative bill, in violation of Rule XX clause 2. The Senate provision not only authorized appropriations to pay judgments, but also required that where such judgments were not paid out of authorized and appropriated funds, payment be made directly out of the Treasury pursuant to a direct appropriation previously provided by law in 31 USC § 724a. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [H.R. 5612].

§ 20. — Waiving Points of Order

§ 20.1 A conference report may be called up pursuant to the provisions of a resolution waiving points of order against the consideration of a conference report or against the conference report itself. 109 CONG. REC. 13816, 13822-25, 88th Cong. 1st Sess., July 31, 1963 [conf. rept. on H.R. 5207]; 124 CONG. REC. 12595, 95th Cong. 2d Sess., May 4, 1978 [conf. rept. on H.R. 6782];

§ 20.2 By resolution reported from the Committee on Rules, the House may waive points of order against a conference report containing matter beyond the scope of differences committed to conference in violation of Rule XXVIII clause 3. 120 CONG. REC. 19668-71, 93d Cong. 2d Sess., June 18, 1974 [H. Res. 1171]; 120 CONG. REC. 36935, 93d Cong. 2d Sess., Nov. 21, 1974 [H. Res. 1470]; 120 CONG. REC. 25649, 25655, 93d Cong. 2d Sess., July 30, 1974 [H. Res. 1253]. Pursuant to such a resolution, the Speaker may overrule a point of order against a conference report containing a provision not included in either the Senate bill or House amendment in the nature of a substitute. 118 CONG. REC. 1076, 92d Cong. 2d Sess., Jan. 25, 1972 [conf. rept. on S. 2819]. A resolution reported from the Committee on Rules waiving points of order against a conference report containing matter outside the scope of the differences between the Houses may also waive points of order against nongermane Senate amendments which would be subject to a separate vote under Rule XXVIII clause 4. 120 CONG. REC. 34758-63, 93d Cong. 2d Sess., Oct. 9, 1974 [H. Res. 1422]; 122 CONG REC. 10811, 94th Cong. 2d Sess., Apr. 13, 1976 [H. Res. 1141]; 122 CONG. REC. 26722, 94th Cong. 2d Sess., Aug. 10, 1976 [H. Res. 1468]. A resolution waiving points of order against a conference report containing provisions outside the scope of differences may include a provision making in order after the adoption of the report the consideration of a concurrent resolution authorizing the Secretary of the Senate to correct the enrolled bill. 120 CONG. REC. 39583, 93d Cong. 2d Sess., Dec. 13, 1974 [H. Res. 1496]. Such a resolution may also include provisions agreeing to an appropriation in a Senate substitute (118 CONG. REC. 25822-24, 92d Cong. 2d Sess., July 27, 1972 [conf. rept. on H.R. 12931]), or which waive points of order against the consideration of a conference report which has not been filed for three days prior to its consideration, in violation of Rule XXVIII clause 2. 121 CONG. REC. 41325, 41328, 94th Cong. 1st Sess., Dec. 17, 1975 [H. Res 933]; 124 CONG. REC. 38623, 95th Cong. 2d Sess., Oct 14, 1978 [H. Res. 1448].

§ 20.3 A resolution reported from the Committee on Rules may waive all points of order against a conference report *except* against certain sections therein which contain matter beyond the House conferees' scope of authority in violation of Rule XXVIII clause 3. 120 CONG. REC. 4397, 93d Cong. 2d Sess., Feb. 27, 1974 [H. Res. 901].

§ 20.4 A resolution waiving points of order against a conference report may make in order

and waive points of order against a motion that the House recede from disagreement to a Senate amendment and concur therein with an amendment which would otherwise be subject to a point of order that the language proposed was legislation on an appropriation bill. 109 CONG. REC. 25495, 88th Cong. 1st Sess., Dec. 23, 1963 [H. Res. 600].

§ 20.5 The House rejected a resolution waiving all points of order against a conference report on a military procurement authorization bill. 119 CONG. REC. 34449, 34454, 93d Cong. 1st Sess., Oct. 17, 1973 [H. Res. 601].

§ 20.6 The House rejected the previous question on a resolution which subjected certain sections of a conference report to points of order, and then adopted an amendment in the nature of a substitute waiving all points of order against the conference report. 120 CONG. REC. 4397, 4407, 4408, 93d Cong. 2d Sess., Feb. 27, 1974 [H. Res. 901].

§ 20.7 A resolution was reported from the Committee on Rules waiving all points of order against a conference report except the point of order that a designated title of the report contained a Senate amendment which was not germane to the House bill. 122 CONG. REC. 1579, 94th Cong. 2d Sess., Jan. 29, 1976 [H. Res. 999]; 122 CONG. REC. 20018, 94th Cong. 2d Sess., June 23, 1976 [H. Res. 1321].

§ 20.8 A resolution was reported from the Committee on Rules waiving all points of order against consideration of a conference report in total disagreement, and against consideration of a Senate amendment in disagreement and any motions to dispose of the Senate amendments (where the conference report and motions had not been available for three days and where the Senate amendment and a motion violated section 401(b) of the Congressional Budget Act). 122 CONG. REC. 21830, 94th Cong. 2d Sess., July 1, 1976 [H. Res. 1393]. *Note:* The conferees reported in technical total disagreement so as to avoid a point of order against the conference report under Rule XXVIII clause 3—since their agreed-upon compromise, as explained in the joint statement, exceeded the scope of the differences committed to conference.

§ 20.9 The House adopted a special rule waiving points of order against consideration of a conference report containing new spending (contract) authority not subject to appropriation limitations and new entitlement authority effective before the beginning of the next fiscal year; waiving points of order against a report containing matter beyond the scope of differences, Senate provisions constituting appropriations on the legislative bill, and nongermane Senate provisions; and extending debate in the House to four hours. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., June 26, 1980 [H. Res. 728].

§ 21. Time for Consideration; the Three-day Rule

§ 21.1 Rule XXVIII clause 2 requires that conference reports, including reports in disagreement, must be printed in the *Congressional Record* on the day filed and be available for three calendar days (excluding Saturday, Sunday, and legal holidays) before the conference report (and any Senate amendment in disagreement) may be considered in the House. 118 CONG. REC. 36938, 92d Cong. 2d Sess., Oct. 17, 1972 [H.R. 16810]; 119 CONG. REC. 22381 et seq., 93d Cong. 1st Sess., June 29, 1973 [H.R. 8410]. Rule XXVIII clause 2 also provides that conference reports must be available to Members on the floor for at least two hours before the beginning of consideration thereof.

§ 21.2 The three-day layover requirement, as well as provisions relating to the availability of copies of the conference report, were made part of the rules in 1971 (H. Res. 5, 92d Cong. Jan. 22, 1971). See Rule XXVIII clause 2. This

rule, which was amended in 1972 to clarify the manner of counting the three days for the layover period, forbids consideration of conference reports, including reports in complete disagreement, until the third calendar day following printing in the *Congressional Record.* 118 CONG. REC. 36013-15, 36021-23, 92d Cong. 2d Sess., Oct. 13, 1972 [H. Res. 1153]. However, the consideration of a particular conference report which has not been printed in the Record for the required days may be made in order by the adoption of a resolution reported from the Committee on Rules. 118 CONG. REC. 5495, 92d Cong. 2d Sess., Feb. 24, 1972 [H. Res. 838]; 118 CONG. REC. 29128, 92d Cong. 2d Sess., Aug. 18, 1972 [H. Res. 1102]. Such a resolution has also been utilized to waive the three-day layover requirement for the remainder of a session. 117 CONG. REC. 45873, 92d Cong. 1st Sess., Dec. 9, 1971. See also 120 CONG. REC. 40846, 40847, 93d Cong. 2d Sess., Dec. 18, 1974 [H. Res. 1512, making in order, for the remainder of the session, consideration of conference reports on the same day filed]; in this instance, the waiver was interpreted to extend to all provisions in clause 2, including the requirement of floor availability of printed copies. Compare 121 CONG. REC. 8402, 94th Cong. 1st Sess., Mar. 24, 1975 [H. Res. 355, waiving the three-day rule against consideration of the conference report on H.R. 4592], where the waiver was confined to the three-day layover requirement, and did not waive the requirement that copies of the conference report be available to Members on the floor.

§ 21.3 Even if the three-day layover requirement is waived, the conference report is still to be available at least two hours before the matter is taken up for consideration, though the two-hour requirement may be waived pursuant to a report from the Committee on Rules. 122 CONG. REC. 4625, 94th Cong. 2d Sess., Feb. 26, 1976 [H. Res. 868]. The two-hour requirement may also be waived pursuant to a proper unanimous-consent agreement providing for consideration "at any time" after filing. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 28, 1979 [H.J. Res. 404]. In 1976, the House adopted a resolution which waived the three-day requirement of Rule XXVIII clause 2 (but not the two-hour availability rule) for the remainder of the session. 122 CONG. REC. 33518, 94th Cong. 2d Sess., Sept. 29, 1976 [H. Res. 1582].

§ 21.4 Prior to the expiration of three calendar days (not including Saturdays, Sundays and legal holidays) from the filing of a conference report in total disagreement, the report and Senate amendment in disagreement may be considered either by unanimous consent or under suspension of the rules on suspension days. 119 CONG. REC. 22381 et seq., 93d Cong. 1st Sess. June 29, 1973 [H.R. 8410].

§ 21.5 Where consideration of a conference report is made in order, by unanimous consent, on the same day the report is filed, the report is called up as privileged. 108 CONG. REC. 19258, 19278, 87th Cong. 2d Sess., Sept. 12, 1962 [conf. rept. on H.R. 12870]. For a similar resolution, see 124 CONG. REC. 34085, 95th Cong. 2d Sess., Oct. 6, 1978 [H. Res. 1404].

§ 21.6 The House adopted a resolution reported from the Committee on Rules permitting immediate consideration of any conference report on a particular bill which had not been printed in the *Congressional Record* three days prior to such consideration, and which was not available to Members on the floor when called up as required by Rule XXVIII clause 2. 121 CONG. REC. 8895, 94th Cong. 1st Sess., Mar. 26, 1975 [H. Res. 358]. A similar resolution waived the three-day and the two-hour availability rules and all points of order against a particular report not yet filed. 123 CONG. REC. 3344, 95th Cong. 1st Sess., Feb. 2, 1977 [H. Res. 231].

§ 21.7 The House rejected a motion offered by the Majority Leader to suspend the rules

and agree to a resolution waiving for the remainder of the session the three-day layover rule for consideration of conference reports. 120 CONG. REC. 40129, 40130, 40170, 40171, 93d Cong. 2d Sess., Dec. 16, 1974 [H. Res. 1509, making in order consideration of conference reports and reports from the Committee on Rules on the same day as reported].

§ 21.8 During the last six calendar days of a session of Congress, a conference report may be called up on the same day it is filed. 116 CONG. REC. 43804-08, 43813-15, 91st Cong. 2d Sess., Dec. 29, 1970 [conf. rept. on H.R. 19590].

§ 22. Debate

§ 22.1 Debate on a conference report is under the hour rule pursuant to Rule XIV clause 2. Such debate may be extended by unanimous-consent but not by motion. 118 CONG. REC. 20278-80, 92d Cong. 2d Sess., June 8, 1972 [conf. rept. on S. 659]. The one hour of debate may also be extended by adoption of a special rule reported by the Committee on Rules. 120 CONG. REC. 4397, 93d Cong. 2d Sess., Feb. 27, 1974 [H. Res. 901]; 121 CONG. REC. 8916, 94th Cong. 1st Sess., Mar. 26, 1975 [H. Res. 358]. In the 96th Congress, the House agreed to a unanimous-consent request that debate in the House on any motion to dispose of amendments in disagreement on the second concurrent resolution on the budget be limited to three hours, instead of one, equally divided between the chairman and ranking minority member of the Budget Committee. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 1, 1979 [S. Con. Res. 36].

§ 22.2 The time for debate on a conference report or an amendment reported from conference in disagreement is equally divided between the majority and minority parties, pursuant to Rule XXVIII clause 2. 121 CONG. REC. 38714, 94th Cong. 1st Sess., Dec. 4, 1975 [conf. rept. on H.R. 8069]. Under that rule a motion to dispose of an amendment reported in disagreement is debatable for one hour equally controlled by the majority and minority parties. 123 CONG. REC. 33445, 95th Cong. 1st Sess., Oct. 12, 1977 [H.R. 7555]; 123 CONG. REC. 29425, 95th Cong. 1st Sess., Sept. 15, 1977 [H. Con. Res. 341]. While the Members dividing the time for the debate on the floor are normally among those who served as House managers at the conference, this is not invariably the case. Where the Member calling up a conference report in disagreement does not seek recognition to offer a motion to dispose of the matter reported in disagreement, the majority member recognized to offer a motion controls one-half of the time thereon. 123 CONG. REC. 36959, 36966, 95th Cong. 1st Sess., Nov. 3, 1977 [H.R. 7555]. And where conferees have been appointed from two committees of the House, the Speaker may recognize the chairman of one committee to control 30 minutes and one of the minority members (not necessarily a member of the same committee) to control 30 minutes. 118 CONG. REC. 319-324, 92d Cong. 2d Sess., Jan. 19, 1972 [conf. rept. on S. 382]. The provision relating to the division of debate time was added to the rules in 1971 (H. Res. 5, 92d Cong., Jan. 22, 1971). Prior to 1971, when a conference report was called up and the Senate amendment in disagreement was pending, the proponent of a motion to dispose of the Senate amendment was recognized under the hour rule. 105 CONG. REC. 11108, 86th Cong. 1st Sess., June 17, 1959.

§ 22.3 Where time for debate on motions to dispose of amendments reported from conference in disagreement is equally divided between the majority and minority parties, a minority member offering a preferential motion does not thereby control one-half of the time under the original motion if another minority member has been designated by his party to control the time. 121 CONG. REC. 14385,

14386, 94th Cong. 1st Sess., May 14, 1975 [H.R. 4881].

§ 22.4 Where debate in the House on a Senate amendment reported from conference in disagreement is equally divided between the majority and minority parties pursuant to Rule XXVIII clause 2(b), the minority member in charge controls 30 minutes for debate only and can yield to other Members only for debate. 121 CONG. REC. 38717, 94th Cong. 1st Sess., Dec. 4, 1975 [conf. rept. on H.R. 8069]; 123 CONG. REC. 26209, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 7555].

§ 22.5 While Rule XXVIII clause 2(b) permits the equal control of debate time only on motions to dispose of amendments "reported from conference in disagreement," that rule has been interpreted to require an equal allocation of time on a motion to dispose of an amendment in disagreement: (1) immediately following rejection of a conference report by the House (121 CONG. REC. 40714, 94th Cong. 1st Sess., Dec. 15, 1975; 123 CONG. REC. 29599, 95th Cong. 1st Sess., Sept. 16, 1977 [H.R. 5262]); (2) immediately following the sustaining of a point of order against a conference report (122 CONG. REC. 32704, 94th Cong. 2d Sess., Sept. 27, 1976 [H.R. 5546]; 122 CONG. REC. 34085, 94th Cong. 2d Sess., Sept. 30, 1976 [H.R. 13367]); and (3) subsequently where the amendment reported in disagreement from conference remains in disagreement and subject to another motion (124 CONG. REC. 4061, 95th Cong. 2d Sess., Feb. 22, 1978 [H.R. 9375]). A division of the hour of debate time is not required, however, where a motion to concur in a Senate amendment to a House amendment is offered (the stage of disagreement having been reached) following Senate rejection of a conference report and the subsequent amendment by the Senate of a House amendment. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Feb. 6, 1980 [S. 918].

§ 22.6 Where a preferential motion to recede and concur in an amendment reported from conference in disagreement has been divided, one hour of debate, equally divided between the majority and minority, is permitted on the motion to recede; and if the previous question is ordered only on the motion to recede and if the House then recedes and a preferential motion to concur with an amendment is offered, another hour of debate equally divided is permitted. 123 CONG. REC. 26206, 95th Cong. 1st Sess., Aug. 2, 1977 [H.R. 7555]; 124 CONG. REC. 33698, 95th Cong. 2d Sess., Oct. 5, 1978 [H.R. 12932]. *Note:* If the previous question is first ordered on the motion to recede and concur and the question is then divided, a separate hour of debate is not in order on a subsequent motion if the House recedes.

§ 22.7 In 1975, by unanimous consent, two Members (the chairman and ranking minority member of the House conferees) were permitted "special orders" of one hour each to discuss a conference report following adoption of a resolution making in order the consideration of the report, but prior to actual consideration of the report. 121 CONG. REC. 8916, 94th Cong. 1st Sess., Mar. 26, 1975 [H. Res. 358]. In another unusual action, the House, following the adoption of a conference report which was agreed to without debate, agreed by unanimous consent to permit 40 minutes' debate on the matter and to include the debate in the *Congressional Record.* 114 CONG. REC. 14375-98, 14402-05, 90th Cong. 2d Sess., May 22, 1968. In a similar instance, the House agreed to the language of a section of a conference report under a special rule permitting such procedure following 40 minutes of debate and then considered the entire conference report, the Member calling up the report and a member of the minority party each being recognized for 30 minutes under clause 2 Rule XXVIII. 117 CONG. REC. 40483, 40489, 92d Cong. 1st Sess., Nov. 10, 1971 [conf. rept. on H.R. 8687]. *Note:* An agreement to permit discussion of a conference report, even though the report has already been agreed to, and to

insert the debate in the Record preceding that point where the conference report was agreed to, does not reopen the report to permit the making of any motions, such as the motion to recommit, the adoption of which would alter the prior action of the House in agreeing to the report. See 114 CONG. REC. 14398-405, 90th Cong. 2d Sess., May 22, 1968.

§ 22.8 Upon the defeat of a motion to reject a nongermane portion of a motion to recede and concur in a Senate amendment with a further amendment, the Member who had moved to recede and concur with an amendment and a minority member were each recognized for 30 minutes of debate on the motion to recede and concur. See 120 CONG. REC. 23359, 23360, 93d Cong. 2d Sess., July 16, 1974 and 120 CONG. REC. 26082 et seq., 93d Cong. 2d Sess., July 31, 1974 [H.R. 8217].

§ 22.9 Where a Senate amendment reported from conference in disagreement remains in disagreement following subsequent action by the House and the Senate, a further motion to dispose of that Senate amendment in the House is privileged and subject to one hour of debate, equally divided, under Rule XXVIII clause 2(b), between the majority and the minority parties. 124 CONG. REC. 4061, 95th Cong. 2d Sess., Feb. 22, 1978 [H.R. 9375].

§ 22.10 Pursuant to a special order providing for four hours of debate on five conference reports considered en bloc in the House, equally divided between the majority and minority, with one hour to be confined to debate on one of the five reports (Natural Gas Policy), the Speaker recognized the Chairman and ranking minority membr of the Ad Hoc Committee on Energy for one-half hour each for the first hour, to be confined to debate on the natural gas conference report, and then recognized them for one and one-half hours each on the remaining reports. 124 CONG. REC. 38349, 95th Cong. 2d Sess., Oct. 14, 1978 [H.R. 4018, H.R. 5037, H.R 5146, H.R. 5289, and H.R. 5263].

§ 22.11 By unanimous consent, amendments in disagreement, on which identical disposition by motion is proposed, may be considered en bloc. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 29, 1979 [H.R. 2676]. In one instance, for example, the House so disposed of some 47 Senate amendments by a single motion to recede and concur. 124 CONG. REC. 32449, 95th Cong. 2d Sess., Sept. 28, 1978 [H.R. 12934]. But the Chair will not entertain a unanimous-consent request to consider en bloc Senate amendments reported from conference in disagreement where the proposed motions to dispose of those amendments are not all the same, as where they propose to recede and concur with different amendments. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 9, 1979; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 12, 1979 [H.R. 5359]. Alternatively, the House may by unanimous consent agree to consider as read and to be designated by number several Senate amendments reported from conference in disagreement, to be disposed of by separate motions. 124 CONG. REC. 32449, 95th Cong. 2d Sess., Sept. 28, 1978 [H.R. 12934].

§ 23. Disposition of Matters in Disagreement; Calling Up

§ 23.1 Pursuant to clause 2(b) Rule XXVIII, motions to dispose of amendments reported from conference in disagreement are not in order until the third day (not counting Saturdays, Sundays, and legal holidays) after the conference report has been filed. Under Rule XXVIII, if the report has been available for the three days and printed in the Record on the day filed, pursuant to clause 2(b), the reading of the report and Senate amendments in disagreement is dispensed with under clause 2(c). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Con. Res. 307]. The conferees having reported in total disagreement, no action is taken on the report itself,

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though it is filed, ordered printed, and called up and read before the Speaker directs the Clerk to report the amendment or amendments in disagreement for action by the House. 118 CONG. REC. 23716, 92d Cong. 2d Sess., June 30, 1972 [H.R. 15390]; 118 CONG. REC. 36024, 92d Cong. 2d Sess., Oct. 13, 1972 [H.R. 16654]; 119 CONG. REC. 28121 et seq., 93d Cong. 1st Sess., Aug. 3, 1973 [S. 1888]. The Chair then ordinarily recognizes the manager of the report for a motion to dispose of the amendment(s) reported in disagreement. 125 CONG. REC. p....., 96th Cong. 1st Sess., May 23, 1979 [H. Con. Res. 107]. Where the Member calling up the report does not seek recognition to offer a motion to dispose of the matter reported in disagreement, another majority member is recognized to offer such a motion. 123 CONG. REC. 36959, 36966, 95th Cong. 1st Sess., Nov. 3, 1977 [H.R. 7555]. This procedure for considering amendments in disagreement has been followed where the conferees filed a conference report in disagreement on a Senate bill and the Senate then amended the House amendments to the bill. 122 CONG. REC. 5497, 5502, 94th Cong. 2d Sess., Mar. 4, 1976 [S. 2017].

The procedure in the House in acting on amendments reported in disagreement differs from that of the Senate. In the Senate, a conference report in total disagreement is considered before disposition of the reported amendments. 125 CONG. REC. p....., 96th Cong. 1st Sess., May 23, 1979 [H. Con. Res. 107]. In the House, after the report is called up, action is taken on the amendment in disagreement but not on the report. Thus, where conferees report in disagreement, and the Senate then recedes and concurs in the House amendments with an amendment, the conference report is not acted on in the House; the Speaker merely directs the Clerk to report the Senate amendment to the House amendments for disposition by motion. 113 CONG. REC. 26040, 90th Cong. 1st Sess., Sept. 19, 1967 [conf. rept. on S. 953]; 124 CONG. REC. 14116, 95th Cong. 2d Sess., May 17, 1978 [S. Con. Res. 80]. Similarly, in the House, where the conferees report that they are enable to agree with respect to a Senate amendment, the conference report is called up but not acted upon, and the Senate amendment in disagreement and the motion to dispose of that amendment are reported; the manager of the conference report and a minority member are then recognized. 122 CONG. REC. 21830, 94th Cong. 2d Sess., July 1, 1976 [conf. rept. on H.R. 12455]. (For further discussion of recognition under Rule XXVIII, see Ch. 32 § 8, supra.)

§ 23.2 In 1974, the House repealed that portion of Rule XX clause 1 which permitted separate consideration in the House of motions to concur or to concur with an amendment in nongermane Senate amendments, and added a new clause 5 to Rule XXVIII which preserved this concept and elaborated on this procedure. The new rule permits separate consideration of nongermane portions of Senate amendments which are the subject of privileged motions to recede and concur or concur with an amendment when such Senate amendments to House measures are reported from conference in disagreement or are otherwise before the House, the stage of disagreement having been reached. 120 CONG. REC. 10195-99, 93d Cong. 2d Sess., Apr. 9, 1974 [H. Res. 998]. Under this procedure, a Member may make a point of order against a portion of a motion to recede and concur in a Senate amendment (reported from conference in disagreement) with a further amendment, on the ground that that portion of the Senate amendment contained in the motion was not germane to the House-passed measure. If the point of order is sustained, a motion rejecting that portion of the motion to recede and concur with an amendment is in order. 120 CONG. REC. 26083, 26088, 93d Cong. 2d Sess., July 31, 1974 [H.R. 8217].

§ 23.3 Where the Senate has amended a House bill by adding several numbered nongermane amendments at the end thereof but

has not changed the House text, and the conferees report in complete disagreement rather than include the amendments in a conference report which would be subject to points of order under Rule XXVIII clause 4, the conference report is called up but not acted upon, and the nongermane Senate amendments are then before the House for disposition by separate motions. 120 CONG. REC. 35464-66, 93d Cong. 2d Sess., Oct. 11, 1974 [conf. rept. on H.R. 13631]. *Note:* The Senate had amended nine House tariff bills with one or more nongermane Senate amendments, and with three of those bills the Senate had made no changes in the House text but had only added the Senate amendment(s) at the end. Since all the nongermane Senate amendments were separately numbered and divided by subject matter, rather than one Senate amendment containing several nongermane provisions, bringing them back in disagreement permitted Members to obtain the same separate votes to which they would have been entitled if the amendments had been included in the conference report and made subject to motions to reject under Rule XXVIII clause 4.

§ 23.4 Rule XX clause 2 only prohibits the inclusion in a conference report on a general appropriation bill of Senate amendments containing legislation, and such Senate amendments are not subject to a point of order when reported from conference in disagreement and called up for disposition by separate motion. 121 CONG. REC. 38714, 94th Cong. 1st Sess., Dec. 4, 1975 [conf. rept. on H.R. 8069].

§ 23.5 The conferees on a revenue bill reported one Senate amendment in technical disagreement (there being no comparable provision in the House bill), to permit a motion in the House to recede from disagreement and concur with a germane amendment containing provisions beyond the scope of differences committed to conference (but not subject to a point of order under Rule XXVIII clause 3, since not reported as part of the conference report). 122 CONG. REC. 30182, 94th Cong. 2d Sess., Sept. 16, 1976 [H.R. 10612].

§ 23.6 The House having rejected a motion offered by the manager of a conference report in disagreement to recede and concur with an amendment in the Senate amendment reported from conference in disagreement, a Member who has opposed that motion may be recognized to offer a motion to recede and concur with a different amendment, and the hour of debate on the motion is, pursuant to clause 2(b) of Rule XXVIII, divided between the majority and minority parties. In this instance, the House rejected the second motion to recede and concur with an amendment, insisted on disagreement, and requested a further conference. 126 CONG. REC. p ....., 96th Cong. 2d Sess., May 29, 1980 [H. Con. Res. 307].

§ 24. Voting; Final Disposition of Report

§ 24.1 A conference report must be acted on as a whole, and either agreed to or disagreed to in its entirety. Rejection of a portion of a conference report under a special procedure permitting such a separate vote results in the rejection of the entire report. 117 CONG. REC. 40479, 40481, 92d Cong. 1st Sess., Nov. 10, 1971 [H. Res. 696]. *Note:* The basic principle as set forth in § 542 of Jefferson's Manual—that a conference report cannot be amended or altered—has been preserved in Rule XXVIII clause 4, which now permits separate motions to reject those portions of a conference report contained in Senate amendments or Senate bills which would not have been germane to the House-passed version. That rule provides that upon rejection of a portion of a conference report under that procedure, the entire conference report is considered as rejected. Under the rule, 40 minutes of debate on a motion to reject a nongermane portion of a

conference report is equally divided between the proponent and an opponent of the motion to reject, and recognition is not based upon party affiliation. 122 CONG. REC. 1582, 94th Cong. 2d Sess., Jan. 29, 1976 [conf. rept. on H.R. 5247]. A House conferee who has been recognized for 20 minutes in opposition to a motion to reject a nongermane portion of a conference report is entitled to close debate on the motion to reject. 122 CONG. REC. 1582, 94th Cong. 2d Sess., Jan. 29, 1976 [conf. rept. on H.R. 5247]; 122 CONG. REC. 20027, 94th Cong. 2d Sess., June 23, 1976 [conf. rept. on S. 3201]. Voting on reports en bloc, see § 24.3, infra.

§ 24.2 When a conference report is being considered, the vote first occurs on agreeing to the conference report on those matters on which agreement has been reached; the amendments reported therein in disagreement are reported and acted on seriatim thereafter. 109 CONG. REC. 25532, 88th Cong. 1st Sess., Dec. 24, 1963 [H.R. 9499]; 108 CONG. REC. 23366, 87th Cong. 2d Sess., Oct. 12, 1962 [H.R. 10620], where, following adoption of a conference report, the House, by unanimous consent, agreed to a Senate amendment to the title of the House bill.

§ 24.3 Ordinarily, it is not permissible to consider several conference reports en bloc; each conference report should be considered and voted upon separately. 116 CONG. REC. 21833, 91st Cong. 2d Sess., June 29, 1970. However, pursuant to a resolution from the Committee on Rules, the House may consider and vote on several conference reports en bloc. 124 CONG. REC. 38503, 95th Cong. 2d Sess., Oct. 14, 1978. In this instance, pursuant to a special rule, the previous question was considered ordered on one vote on final adoption of five conference reports (the National Energy Act) considered en bloc in the House, with such vote not subject to a demand for a division of the question or to a motion to reconsider.

§ 24.4 A conference report may be adopted pursuant to a motion to suspend the rules. 116 CONG. REC. 44282, 44291, 91st Cong. 2d Sess., Dec. 31, 1970 [conf. rept. on H.R. 13000]. Thus, the Speaker may recognize a Member to move to suspend the rules and agree to a conference report which has been ruled out of order because the conferees exceeded their authority in violation of Rule XXVIII clause 3. 120 CONG. REC. 41860, 41861, 93d Cong. 2d Sess., Dec. 20, 1974 [conf. rept. on H.R. 620].

§ 24.5 A special rule from the Committee on Rules, while prohibiting points of order against a conference report, may permit separate motions to strike out two sections of the conference report (containing nongermane matter) with separate debate on each motion. In one instance, under the special rule, the adoption of the first motion, while tantamount to rejection of the report, did not preclude the offering of the second motion, and the conference report was considered as rejected upon the conclusion of consideration of the second motion. 121 CONG. REC. 40081, 40167-74, 94th Cong. 1st Sess., Dec. 11, 1975 [conf. rept. on H.R. 3474]. *Note:* Since separate votes were permitted on two sections of the report, the rejection of either section would be, under § 549 of Jefferson's Manual, a rejection of the entire conference report, but the rule was interpreted to permit votes on both motions to reject.

§ 24.6 The inadvertence of the conferees in failing to dispose of an amendment to a title does not prevent the amendment from coming back to the House for disposition. Thus, where the House passes a Senate bill with an amendment to the text and an amendment to the title, and the conferees inadvertently fail to dispose of the House title amendment in their report, the title amendment remains in disagreement and may be disposed of by motion following adoption of the conference report. 122 CONG. REC. 11598, 94th Cong. 2d Sess., Apr. 28, 1976 [conf. rept. on S. 2662]. 113 CONG. REC.

29382-88, 90th Cong. 1st Sess., Oct. 19, 1967. Similarly, where the conferees inadvertently fail to consider a Senate amendment to the title of a House bill, that amendment remains before the House for disposition by unanimous consent or by motion following adoption of the report. 122 CONG. REC. 29759, 94th Cong. 2d Sess., Sept. 10, 1976 [S. 327]. On one occasion, when the Senate acted first on a conference report but inadvertently neglected to dispose of a Senate amendment reported from conference in disagreement, the House adopted the conference report and then agreed to a motion to recede and concur in the original Senate amendment with an amendment, thereby requiring further Senate action to agree to the House amendment. 120 CONG. REC. 41517, 93d Cong. 2d Sess., Dec. 19, 1974, and 120 CONG. REC. 41840, 93d Cong. 2d Sess., Dec. 20, 1974 [H.R. 13296].

§ 24.7 *Note:* In the House, a motion to table a conference report would, if agreed to, carry the bill and amendments thereto to the table and the motion is not permitted under the precedents (5 Cannon's Precedents § 6538); but in the Senate, the adoption of a motion to lay a conference report on the table results only in rejection of the report and further motions to dispose of amendments between the Houses remain in order. See 120 CONG. REC. 22611, 93d Cong. 2d Sess., July 10, 1974 [conf. rept. on H.R. 7824].

§ 24.8 Where the previous question has been ordered on a conference report, further proceedings thereon may be postponed to a time certain only by unanimous consent, and a motion to that effect is not in order. 120 CONG. REC. 35640, 93d Cong. 2d Sess., Oct. 15, 1974 [conf. rept. on H.R. 15427].

§ 24.9 A conference report and motions disposing of amendments in disagreement having been adopted, the Speaker may put from the chair as one question reconsideration of all those votes (subject to demand for a separate vote on reconsideration of any question) and a Member may then move to lay all motions to reconsider on the table. 124 CONG. REC. 33480, 95th Cong. 2d Sess., Oct. 4, 1978.

§ 25. Effect of Rejection or Ruling Out of Report

§ 25.1 When a conference report involving a Senate amendment in disagreement is rejected, the Senate amendment is reported for further action by the House. 115 CONG. REC. 38102-06, 38108, 91st Cong. 1st Sess., Dec. 10, 1969 [conf. rept. on H.R. 4293]; 107 CONG. REC. 19219-21, 87th Cong. 1st Sess., Sept. 13, 1961 [conf. rept. on H.R. 7576] (where the House rejected a conference report and insisted on its disagreement to the Senate amendment). Thus, the House may reject a conference report, insist on disagreement to the Senate amendment, and ask for a further conference. 107 CONG. REC. 21427-40, 87th Cong. 1st Sess., Sept. 26, 1961; 110 CONG. REC. 20121, 20127, 88th Cong. 2d Sess., Aug. 18, 1964 [conf. rept. on H.R. 8864]; 124 CONG. REC. 5018, 95th Cong. 2d Sess., Feb. 28, 1978 [H.R. 3816]. However, motion to instruct House managers at a new conference would not be in order until the motion to go to further conference has been agreed to. 121 CONG. REC. 12761, 94th Cong. 1st Sess., May 1, 1975 [conf. rept. on H.R. 6096].

§ 25.2 When a conference report is ruled out of order, the bill and amendments are again before the House and, the stage of disagreement having been reached, motions relating to amendments and a further conference are in order. 122 CONG. REC. 34085, 94th Cong. 2d Sess., Sept. 30, 1976 [H.R. 13367]; 123 CONG. REC. 33772, 95th Cong. 1st Sess., Oct. 14, 1977 [S. 1811].

§ 25.3 Pursuant to clause 4 Rule XXVIII, where the House has agreed to one or more motions to reject a nongermane portion of a conference report, the report is considered as

rejected, and the House then considers a motion to recede from disagreement to the Senate amendment and concur with an amendment consisting of that portion of the conference report not rejected. 119 CONG. REC. 29244-46, 93d Cong. 1st Sess., Sept. 11, 1973 [conf. rept. on H.R. 7645]; 121 CONG. REC. 40738, 40739, 94th Cong. 1st Sess., Dec. 15, 1975 [conf. rept. on S. 622]; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 12, 1979. Or the House then proceeds to consider a motion to insist upon the House amendment to the Senate bill. 122 CONG. REC. 20028, 94th Cong. 2d Sess., June 23, 1976 [conf. rept. on S. 3201].

§ 26. Recommittal

§ 26.1 A motion to recommit a conference report is in order if the other House has not acted on the report and thereby discharged its managers. 107 CONG. REC. 5288, 87th Cong. 1st Sess., Mar. 29, 1961; 109 Cong. Rec. 25249, 88th Cong. 1st Sess., Dec. 19, 1963; 114 CONG. REC. 16058, 90th Cong. 2d Sess., June 5, 1968 [conf. rept. on H.R. 11308]. After one House has acted on a report, thus discharging its managers, the other House has only the options of accepting or rejecting it. 111 CONG. REC. 27698-708, 89th Cong. 1st Sess., Oct. 20, 1965 [S. 2300]. For a Senate precedent, see 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 28, 1979 [H.J. Res. 404].

§ 26.2 A motion to recommit a conference report is not in order until the previous question has been ordered on the conference report. 116 CONG. REC. 41502, 91st Cong. 2d Sess., Dec. 15, 1970. Thereafter, a motion to recommit the report is in order (107 CONG. REC. 20533, 87th Cong. 1st Sess., Sept. 21, 1961; 109 CONG. REC. 25409, 88th Cong. 1st Sess. Dec. 21, 1963), and is not affected by a special rule waiving the reading of the report. 123 CONG. REC. 26105, 95th Cong. 1st Sess., Aug. 2, 1977 [conf. rept. on S. 826].

§ 26.3 A motion to recommit comes too late after a conference report has been agreed to. 114 CONG. REC. 14402-05, 90th Cong. 2d Sess., May 22, 1968.

§ 26.4 A motion to recommit a conference report is not subject to amendment after the previous question is ordered on the motion. 108 CONG. REC. 20094-105, 87th Cong. 2d Sess., Sept. 20, 1962 [H.R. 12391]. But if the previous question is voted down, the motion may be amended (116 CONG. REC. 44169, 91st Cong. 2d Sess., Dec. 30, 1970 [conf. rept. on H.R. 18582]), and the amendment may include instructions to the House conferees. 116 CONG. REC. 41502, 91st Cong. 2d Sess., Dec. 15, 1970.

§ 26.5 A conference report on a bill may be recommitted with instructions to the managers on the part of the House to insist on disagreement to certain Senate amendments (113 CONG. REC. 27727-30, 27734-38, 90th Cong. 1st Sess., Oct. 4, 1967) or to amend in a permissible way a recommended amendment contained in the report. 122 CONG. REC. 33034, 94th Cong. 2d Sess., Sept. 28, 1976.

§ 26.6 *Note:* A motion to recommit a conference report generally may not include instructions which would be inadmissible if offered as an amendment in the House. See 119 CONG. REC. 42565, 93d Cong. 1st Sess., Dec. 19, 1973 [H.R. 11576]. Thus, while Rule XX clause 2 permits the House by separate vote to authorize the managers on the part of the House to agree to amendments of the Senate in violation of the House rule against unauthorized appropriations and legislation on appropriation bills, a motion to recommit a conference report on a general appropriation bill may not include instructions which would *add* legislation to that contained in a Senate amendment. 119 CONG. REC. 36835, 93d Cong. 1st Sess., Nov. 13, 1973 [conf. rept. on H.R. 8877]. However, instructions to merely agree to a Senate amendment containing an appropriation not

authorized by law is in order since the vote on the motion to recommit satisfies the separate vote requirements of clause 2 Rule XX. 119 CONG. REC. 42565. 93d Cong. 1st Sess., Dec. 19, 1973 [H.R. 11576].

§ 26.7 A conference report may by unanimous consent be recommitted to the committee of conference. 111 CONG. REC. 15212, 89th Cong. 1st Sess., June 30, 1965; 113 CONG. REC. 17738, 90th Cong. 1st Sess., June 28, 1967; 120 CONG. REC. 22319, 93d Cong. 2d Sess., July 9, 1974. This procedure may be used to recommit a report in which an error has been discovered (111 CONG. REC. 15212, 89th Cong. 1st Sess., June 30, 1965), to permit the conferees to make certain changes and to file a new report (119 CONG. REC. 36222, 93d Cong. 1st Sess., Nov. 7, 1973 [conf. rept. on S. 1081], or where the conferees have exceeded their authority in reporting a matter not in disagreement between them. See. 113 CONG. REC. 17738, 90th Cong. 1st Sess., June 28, 1967 [conf. rept. on H.R. 2508]. Recommital by unanimous consent is also used to permit the conferees to make certain changes in the form of the original report. 120 CONG. REC. 22319, 93d Cong. 2d Sess., July 9, 1974 [conf. rept. on H.R. 11873].

§ 26.8 If a motion to recommit a conference report is voted down, the question before the House is on the adoption of the conference report. 108 Cong. Rec. 20094, 20105, 87th Cong. 2d Sess., Sept. 20, 1962 [H.R. 12391].

§ 26.9 Where a conference report is recommitted to conference, the Senate is not notified and the House managers carry the original papers back to conference. 117 CONG. REC. 43835, 92d Cong. 1st Sess., Dec. 1, 1971 [conf. rept. on S. Con. Res. 6]. A second report is then filed by the conferees; this second report is numbered and otherwise treated as a new and separate report. 108 CONG. REC. 12135, 12297, 12355, 87th Cong. 2d Sess., June 29, 1962.

§ 26.10 The Speaker has recognized a majority member to offer a motion to recommit a conference report in the absence of a minority member seeking recognition to offer the motion. 116 CONG. REC. 25616, 91st Cong. 2d Sess., July 23, 1970 [conf. rept. on H.R. 14705]. Generally, see Ch. 23 §§ 11 et seq., supra.

§ 26.11 The House agreed to a concurrent resolution under suspension of the rules which (1) rescinded the signatures of the Speaker and the President pro tempore on an enrolled bill; (2) vacated in reverse order the adoption by the two Houses of the conference report on the bill; and (3) recommitted the bill to the original committee of conference. 122 CONG. REC. 281, 94th Cong. 2d Sess., Jan. 20, 1976 [H. Con. Res. 527]. *Note:* The conference report had been agreed to by both Houses and the enrolled bill, having been signed, was cleared for transmission to the President but was held by the Senate over the adjournment *sine die* so that both substantive and technical changes could be made. Had there been only technical corrections to be made, the two Houses could have merely authorized the Secretary of the Senate to correct the enrolled bill, but since substantive changes were contemplated in order to avoid an anticipated veto, the proceedings by which both Houses had adopted the conference report (in the reverse order in which the two Houses had acted) were vacated, thereby returning to the stage of the bill prior to consideration of the conference report in the Senate and thereby reconstituting the original conference, to which the bill was then recommitted under the concurrent resolution. Accordingly, new conferees were not named and no motion to instruct was in order.

Chapter 34

Presidential Messages; Executive Communications

§ 1. In General

§ 2. Referral to Committee

§ 3. Privileged Status; Relation to Other Business

§ 4. Joint Sessions to Receive Presidential Messages

§ 1. In General

§ 1.1 Messages from the President are laid before the House by the Speaker. 115 CONG. REC. 16195, 91st Cong. 1st Sess., June 17, 1969, where the Speaker laid before the House a message from the President, transmitting the President's annual report on salary comparability.

§ 1.2 A communication from the President is sometimes handled in the same manner as a Presidential message and laid before the House. 110 CONG. REC. 1580, 88th Cong. 2d Sess., Feb. 1, 1964 (where a communication from the President, transmitting the appendix to the budget, was laid down in the manner of a message from the President in order to maintain consistency in the treatment of the budget). See also 109 CONG. REC. 19283, 88th Cong. 1st Sess., Oct. 10, 1963 (where a communication from the President relating to the sale of wheat to Russia was laid before the House by the Speaker, read, referred, and ordered printed); 119 CONG. REC. 28083, 93d Cong. 1st Sess., Aug. 3, 1973 (where the Speaker laid before the House a communication from the President advising the House of the President's intention to abide by the law requiring a cessation of U.S. military operations in Indochina); and 113 CONG. REC. 35938, 90th Cong. 1st Sess., Dec. 12, 1967 (where a letter from the President, addressed to the Speaker "for the information of your colleagues," was, without objection, read by the Clerk and made a part of the proceedings of the House). Where communications are transmitted to the House from the President prior to the expiration of his term, but are not received by the House until after the swearing in of his successor, they are printed in the next edition of the Record with a heading indicating the time of their receipt. 123 CONG. REC. 1920, 95th Cong. 1st Sess., Jan. 24, 1977.

§ 1.3 The Clerk, as the agent of the House, is authorized to receive messages from the President after the House has adjourned; when received, they are transmitted to the Speaker (with a covering letter detailing the time and place of receipt of the message) who then lays them before the House at the earliest opportunity. 107 CONG. REC. 972, 87th Cong. 1st Sess., Jan. 18, 1961; 114 CONG. REC. 3955-61, 90th Cong. 2d Sess., Feb. 26, 1968; 115 CONG. REC. 4088, 91st Cong. 1st Sess., Feb. 20, 1969. In one instance, the Speaker laid before the House a communication from the Clerk transmitting a sealed envelope said to contain a veto message received by the Clerk after the House had adjourned for the weekend. 111 CONG. REC. 23623, 89th Cong. 1st Sess., Sept. 13, 1965. See also Rule III clause 5 (97th Cong.), relating to the duties of the Clerk, and Ch. 37 § 8, infra, as to the authority of the Clerk to receive messages during adjournment.

§ 2. Referral to Committee

§ 2.1 *Note:* Presidential messages are normally referred to the committee having jurisdiction by order of the Speaker without debate and without motion from the floor; but under clause 2 Rule XXIV a Presidential message may be referred by the House itself on motion. See 119 CONG. REC. 34032, 93d Cong. 1st Sess., Oct. 13, 1973.

§ 2.2 In making referrals, a distinction is made between Presidential messages [which are delivered through the door and laid before the House] and executive communications. Communications from the executive departments and President are referred, under the direction of the Speaker, directly to the appropriate committees (clause 2 Rule XXIV). Normally, the referral of such communications is not announced to the House but is indicated in the Record and the Journal of the day's proceedings. 115 CONG. REC. 14217, 91st Cong. 1st Sess., May 28, 1969 [Ex. Comm. No. 810]. Where executive communications are trans-

mitted by a message, the Speaker refers them from the chair. In one such instance, the Speaker laid before the House and referred a message from the President to the Union Calendar [since it involved matters within the jurisdiction of several committees] and referred the accompanying documents to a committee. 123 CONG. REC. 15910, 95th Cong. 1st Sess., May 23, 1977. An executive communication from the President has itself been divided by titles for referral by the Speaker to several committees pursuant to Rule X clause 5(c) and Rule XXIV clause 2. 121 CONG. REC. 2253, 94th Cong. 1st Sess., Feb. 4, 1975. *Note:* Pursuant to these rules, the Speaker has discretionary authority to delay referral of an executive communication.

§ 2.3 Executive communications, while normally referred under clause 2 Rule XXIV, are sometimes, at the discretion of the Speaker, laid before the House and read before being referred to committee. Thus, letters from the President or an executive official to the Speaker, advocating certain legislative action, are usually treated as executive communications but are sometimes laid before the House and read, and then referred and ordered printed. 115 CONG. REC. 33739, 91st Cong. 1st Sess., Nov. 12, 1969; 116 CONG. REC. 31422, 91st Cong. 2d Sess., Sept 14, 1970. See also 114 CONG. REC. 16403, 90th Cong. 2d Sess., June 10, 1968 (where the Speaker laid before the House a communication from the Attorney General). A similar procedure may be followed on executive communications submitted in response to resolutions of inquiry. Thus, in the 96th Congress, the Speaker laid before the House a communication addressed to him from the Secretary of Energy submitting data requested in a resolution of inquiry adopted by the House, which communication was referred to the committee with jurisdiction over the subject and ordered printed. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., July 10, 1979 [H. Res. 291]. In some instances, the letter has been laid before the House but not referred as an executive communication. 120 CONG. REC. 6952, 93d Cong. 2d Sess., Mar. 18, 1974; 121 CONG. REC. 4151, 94th Cong. 1st Sess., Feb. 25, 1975 (requesting assistance to Cambodia); 121 CONG. REC. 12752, 94th Cong. 1st Sess., May 1, 1975 (urging approval of a conference report). In 1969, the Speaker took the floor during debate in Committee of the Whole to read to the House a personal letter from the President expressing support of a foreign aid authorization bill then under consideration. 115 CONG. REC. 35192, 91st Cong. 1st Sess., Nov. 20, 1969.

§ 2.4 Where a designated Speaker pro tempore is presiding, Presidential messages and other matters which are laid before the House, are referred to committee and ordered printed only by unanimous consent. 114 CONG. REC. 818-21, 90th Cong. 2d Sess., Jan. 24, 1968; 114 CONG. REC. 3955-61, 90th Cong. 2d Sess., Feb. 26, 1968; 114 CONG. REC. 5906, 90th Cong. 2d Sess., Mar. 11, 1968. In one instance, a designated Speaker pro tempore laid before the House a communication transmitting proposed draft legislation from the President; this communication was read, and, by unanimous consent, printed in the Record with accompanying summary, but was not referred to committee pending the Speaker's subsequent disposition thereof. 121 CONG. REC. 1975, 1976, 94th Cong. 1st Sess., Jan. 31, 1975.

§ 2.5 Classified material transmitted to Congress may require special handling and processing in referral. See, for example, 116 CONG. REC. 1017, 91st Cong. 2d Sess., Jan. 26, 1970, where the President's message was laid before the House and read, and then referred to the Joint Committee on Atomic Energy along with an accompanying classified envelope marked "Secret," which was not opened and read. *Note:* After processing the message, the bill clerk transmitted the message and accompanying envelope to a staff member of the joint committee, who signed a receipt therefor.

§ 2.6 By statute, either House may order the printing of a document not already provided for by law, when accompanied by an estimate from the Public Printer as to the probable cost. 44 USC § 716. Under this statute, the Speaker has the discretion to order printed as a House document an executive communication not specifically required by law to be printed, and he may do so on a day subsequent to the referral of the communication to the appropriate committee. 124 CONG. REC. 12541, 95th Cong. 2d Sess., May 3, 1978.

§ 3. Privileged Status; Relation to Other Business

§ 3.1 The reception of a Presidential message is a matter of high privilege in the House, and it is to be laid before the House and read as soon as practicable after its reception; the Chair has indicated that where such a message is received it is laid before the House as soon as business permits, and the precedents do not justify its being held at the desk until another legislative day. 114 CONG. REC. 18330, 90th Cong. 2d Sess., June 24, 1968.

§ 3.2 Messages from the President are read and referred before the House takes up unfinished business (such as a vote on a resolution pending on the preceding day when the House adjourned in the absence of a quorum). 112 CONG. REC. 27640, 89th Cong. 2d Sess., Oct. 19, 1966.

§ 3.3 The Committee of the Whole sometimes rises, informally, so that the House may receive a message; but when it does so, the Chairman does not report to the House but merely relinquishes the Chair to the Speaker who recognizes the messenger, receives the message, and then directs the Committee to resume its sitting. 115 CONG. REC. 16182, 91st Cong. 1st Sess., June 17, 1969.

§ 4. Joint Sessions to Receive Presidential Messages

§ 4.1 A joint session of the two Houses for the purpose of receiving a message from the President is provided for by a concurrent resolution. 105 CONG. REC. 16, 86th Cong. 1st Sess., Jan. 7, 1959; 106 CONG. REC. 7, 86th Cong. 2d Sess., Jan. 6, 1960; 115 CONG. REC. 451, 91st Cong. 1st Sess., Jan. 13, 1969. The resolution is called up from the floor as privileged. 117 CONG. REC. 30845, 92d Cong. 1st Sess., Sept. 8, 1971 [H. Con. Res. 395].

§ 4.2 Following its oral delivery, the President's state of the Union message is by motion referred to the Committee of the Whole House on the state of the Union. 107 CONG. REC. 1431, 87th Cong. 1st Sess., Jan. 30, 1961; 113 CONG. REC. 35-40, 90th Cong. 1st Sess., Jan. 10, 1967; 117 CONG. REC. 165-69, 92d Cong. 1st Sess., Jan. 22, 1971. In the 93d Congress, the President's state of the Union address and separate written message were, on motion, referred to the Committee of the Whole House on the state of the Union and ordered printed as a single document. 120 CONG. REC. 1485, 93d Cong. 2d Sess., Jan. 30, 1974. *Note:* The President hand delivered the written portion of his message to the Speaker under separate seal, and the Speaker ordered it printed to follow that portion of the message delivered in person. The written portion was not read in the House when it reconvened following the joint session.

§ 4.3 In the 96th Congress, second session, President Carter delivered a transcript of his state of the Union address to the Congress on January 21, so that Members would be aware of its major provisions prior to its oral delivery at the joint session on January 23. 126 CONG. REC. p. ....., Jan. 22, 1980.

Chapter 35

Resignations

§ 1. Resignations of Members From the House
§ 2. Resignations From Committees
§ 3. Resignations of Officers and Employees

§ 1. Resignations of Members From the House

§ 1.1 Members have resigned from the House by submitting a letter to the Governor of their state and by notifying the Speaker, who lays the matter before the House. 107 CONG. REC. 1016, 87th Cong. 1st Sess., Jan. 20, 1961; 107 CONG. REC. 18595, 87th Cong. 1st Sess., Sept. 7, 1961; 108 CONG. REC. 11739, 87th Cong. 2d Sess., June 26, 1962; 109 CONG. REC. 18583, 88th Cong. 1st Sess., Oct. 2, 1963; 117 CONG. REC. 35451, 92d Cong. 1st Sess., Oct. 7, 1971. Customarily, the resigning Member informs the Speaker and the House of his action. 114 CONG. REC. 26541, 90th Cong. 2d Sess., Sept. 12, 1968; 115 CONG. REC. 4734, 91st Cong. 1st Sess., Feb. 27, 1969. *Note:* A Member's resignation from the House is effected by transmittal of a letter to the Governor, a copy of which is normally forwarded to the Speaker under separate covering letter. However, there have been instances in which a Member has tendered his resignation directly to the Speaker. If a Member attempts to resign directly to the House by transmitting a letter to the Speaker, his communication is laid before the House and the Speaker is directed by order of the House to inform the Governor of the Member's state of his resignation. 122 CONG. REC. 28887, 94th Cong. 2d Sess., Sept. 1, 1976. See also 106 CONG. REC. 16535, 86th Cong. 2d Sess., Aug. 16, 1960, where, during a period when the House was adjourned to a day certain, a Member resigned directly to the Speaker; the Speaker received the resignation and informed the Governor of the state of the receipt thereof.

§ 1.2 Letters notifying the Speaker of resignations from the House, submitted after *sine die* adjournment of a Congress, are laid before the House at its next convening or following organization of the next Congress. 105 CONG. REC. 15, 86th Cong. 1st Sess., Jan. 7, 1959; 109 CONG. REC. 23, 88th Cong. 1st Sess., Jan. 9, 1963. A copy of a letter of resignation received during an adjournment to a day certain is laid before the House when it reconvenes. 118 CONG. REC. 29386, 92d Cong. 2d Sess., Sept. 5, 1972; 121 CONG. REC. 27201, 94th Cong. 1st Sess., Sept. 3, 1975. *Note:* A Member's resignation from the House is effective upon its receipt by the Governor, and the fact that the House is not in session to receive notification thereof does not delay that Member's appointment to an incompatible office. Compare 117 CONG. REC. 32289, 92d Cong. 1st Sess., Sept. 17, 1971, and 117 CONG. REC. 32413, 92d Cong. 1st Sess., Sept. 20, 1971.

§ 1.3 The Speaker laid before the House a letter from a Member, advising that the Member had tendered his resignation to the Governor of his state, said resignation to be effective "upon such date as the Governor may set for a special election to fill the vacancy." 111 CONG. REC. 805, 89th Cong. 1st Sess., Jan. 18, 1965.

§ 1.4 A Member submitted a copy of his resignation to the Speaker several weeks before its effective date. 109 CONG. REC. 25428, 88th Cong. 1st Sess., Dec. 21, 1963. In the 96th Congress, a communication from a Member transmitting a copy of his letter of resignation as a Member to the Governor of his state, effective on a future date, was laid before the House by the Speaker. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Nov. 7, 1979. For a general discussion of the validity of resignations to take effect in the future, see 2 *Deschler's Precedents,* Ch. 8 § 9.3.

§ 1.5 A Member's letter of resignation was laid before the House after he had been sworn in as an official of the executive branch, but the effective time of his resignation was earlier than that at which he took the oath. 115 CONG. REC. 13719, 91st Cong. 1st Sess., May 26, 1969.

§ 1.6 The Speaker laid before the House a copy of a letter of resignation from a Member

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who had been appointed to the Senate to fill a vacancy caused by the resignation of a Senator whose term of office was about to expire. 116 CONG. REC. 44617, 91st Cong. 2d Sess., Jan. 2, 1971. *Note:* The Member's resignation from the House was effective upon submission to the Governor of California. His letter to the Speaker resigning from the House "effective immediately," was laid before the House at 1:25 p.m., and he was sworn into the Senate shortly thereafter on the same day.

§ 1.7 A copy of Representative Gerald R. Ford's letter of resignation—to be "effective upon my becoming Vice President"—was laid before the House by the Speaker following the completion of the joint meeting for the swearing in of Representative Ford as Vice President. 119 CONG. REC. 39927, 93d Cong. 1st Sess., Dec. 6, 1973.

§ 1.8 The Speaker laid before the House a communication from a Member informing him of his resignation from the House, and the letter to the Governor as well as the letter to the Speaker were read to the House (at the request of the resigning Member). 123 CONG. REC. 13391, 95th Cong. 1st Sess., May 4, 1977. *Note:* Normally, only the resigning Member's letter to the Speaker is read to the House, and his letter to the Governor is laid before the House and printed in the Record but not read.

§ 2. Resignations From Committees

§ 2.1 A resignation of a member from a committee is laid before the House by the Speaker. It is generally accepted "without objection." 105 CONG. REC. 840, 86th Cong. 1st Sess., Jan. 19, 1959; 107 CONG. REC. 21201, 87th Cong. 1st Sess., Sept. 25, 1961; 108 CONG. REC. 16552, 87th Cong. 2d Sess., Aug. 15, 1962.

§ 2.2 A letter of resignation of a chairman of a standing or select committee is laid before the House for its acceptance. 112 CONG. REC. 170, 89th Cong. 2d Sess., Jan. 13, 1966 (where the Member resigned both as chairman and as a member of a standing committee); 121 CONG. REC. 19054, 94th Cong. 1st Sess., June 16, 1975 (resignation from a select committee).

§ 2.3 The resignation of a member from a select [or standing] committee presents a question of privilege. 121 CONG. REC. 19054, 94th Cong. 1st Sess., June 16, 1975; 123 CONG. REC. 6579-82, 95th Cong. 1st Sess., Mar. 8, 1977. A letter of resignation being laid before the House, the pending question is whether the resignation shall be accepted, and the Member who submits the letter is recognized for one hour. 121 CONG. REC. 19054, 94th Cong. 1st Sess., June 16, 1975. If that Member fails to seek recognition, the Speaker recognizes for one hour the Member "moving" the acceptance of the resignation. 123 CONG. REC. 6579-82, 95th Cong. 1st Sess., Mar. 8, 1977. The question of whether a Member should be relieved from committee service is debatable only within narrow limits, and the Speaker may take the initiative in enforcing that restriction. 121 CONG. REC. 19056, 94th Cong. 1st Sess., June 16, 1975.

§ 2.4 The Speaker laid before the House a letter of resignation from the Chairman of the Select Committee on Intelligence in which the Chairman proposed to resign both as chairman and as a member of that select committee. In this instance, the House refused to accept the resignation. 121 CONG. REC. 19054-61, 94th Cong. 1st Sess., June 16, 1975.

§ 2.5 A Member having changed his political party affiliation from Republican to Democrat, the House accepted his resignation as a minority member of the Committees on Education and Labor and Government Operations. 118 CONG. REC. 10198, 92d Cong. 2d Sess., Mar. 27, 1972.

§ 2.6 In the 94th Congress, the Chairman of the Committee on House Administration, who was under investigation by the Committee on

Standards of Official Conduct and by a federal grand jury for alleged misuse of committee funds, submitted his resignation as chairman to the Speaker, which resignation was accepted by unanimous consent. 122 CONG. REC. 19449, 94th Cong. 2d Sess., June 21, 1976.

§ 3. Resignations of Officers and Employees

§ 3.1 The resignation of an officer of the House, such as the Doorkeeper or Clerk, is laid before the House by the Speaker for its acceptance. 120 CONG. REC. 41855, 93d Cong. 2d Sess., Dec. 20, 1974 (Doorkeeper); 121 CONG. REC. 36901, 94th Cong. 1st Sess., Nov. 17, 1975 (Clerk). See also 118 CONG. REC. 23665, 92d Cong. 2d Sess., June 30, 1972, where the House accepted the resignation of the Sergeant at Arms. The resignations of officials or employees serving the House in a non-elective office, such as the Legislative Counsel of the House, are laid before the House but do not require its acceptance. 108 CONG. REC. 584, 87th Cong. 2d Sess., Jan. 22, 1962. Thus the Speaker merely lays before the House letters of resignation from minority employees. 108 CONG. REC. 482, 87th Cong. 2d Sess., Jan. 18, 1962; 109 CONG. REC. 11457, 88th Cong. 1st Sess., June 25, 1963; 111 CONG. REC. 16529, 89th Cong. 1st Sess., July 13, 1965; 115 CONG. REC. 3264, 91st Cong. 1st Sess., Feb. 7, 1969; 119 CONG. REC. 39927, 93d Cong. 1st Sess., Dec. 6, 1973. *Note:* Resignations of minority employees need not be accepted by the House as they are not elected officials.

Chapter 36

Recess

§ 1. In General
§ 2. Types of Recess Authority
§ 3. Purpose of Recess

§ 1. In General

§ 1.1 A motion for a recess lies where it is convenient that the business of the House "be suspended for a short time, as for a conference presently to be held." *House Rules and Manual* § 586 (96th Cong.). The motion is not privileged in the House and can be entertained only by unanimous consent. See 106 CONG. REC. 6400, 86th Cong. 2d Sess., Mar. 23, 1960; 121 CONG. REC. 26244, 94th Cong. 1st Sess., July 31, 1975.

§ 1.2 The Speaker may "without objection" declare the House in recess for a brief period, such as five minutes. 112 CONG. REC. 8406, 89th Cong. 2d Sess., Apr. 19, 1966 (where a Member intending to call up a resolution was temporarily away from the floor, the Speaker suspended business until he could be located).

§ 1.3 The Speaker may by unanimous consent declare the House in recess subject to his call. 112 CONG. REC. 28881, 89th Cong. 2d Sess., Oct. 22, 1966 (where the Speaker declared several recesses preceding adjournment *sine die,* each time doing so by unanimous consent since the House had not by resolution or other formal agreement given him such authority). Pursuant to authority granted to the Speaker by unanimous consent, a designated Speaker pro tempore may declare a recess subject to the call of the Chair. 117 CONG. REC. 47148, 92d Cong. 1st Sess., Dec. 15, 1971.

§ 1.4 The Speaker may not declare a recess during a roll call, even though the House has, by unanimous consent, previously given him authority to declare a recess at any time during the remainder of the session. 108 CONG. REC. 23423-43, 87th Cong. 2d Sess., Oct. 12, 1962.

§ 2. Types of Recess Authority

§ 2.1 Recess authority granted to the Speaker may be for a single recess on a given day (108 CONG. REC. 12625, 87th Cong. 2d Sess., July 2, 1962; 117 CONG. REC. 16148, 92d Cong. 1st Sess., May 20, 1971; 116 CONG. REC. 43789, 91st Cong. 2d Sess., Dec. 29, 1970), for several recesses subject to the call of the Chair (119 CONG. REC. 13576, 93d Cong. 1st Sess., Apr. 30, 1973), for a recess on the following day (105 CONG. REC. 9155, 86th Cong. 1st Sess., May 26, 1959), for a recess at any time during the remainder of the day (105 CONG. REC. 5264, 86th Cong. 1st Sess., Mar. 25, 1959; 108 CONG. REC. 19258, 87th Cong. 2d Sess., Sept. 12, 1962), or for a recess to extend not later than a time certain on that day. 118 CONG. REC. 36474, 92d Cong. 2d Sess., Oct. 14, 1972. The Speaker may be authorized by unanimous consent to declare recesses during the remainder of the week (113 CONG. REC. 37126, 90th Cong. 1st Sess., Dec. 15, 1967) or at any time on certain days of the week. 110 CONG. REC. 7119, 88th Cong. 2d Sess., Apr. 7, 1964; 116 CONG. REC. 43094, 91st Cong. 2d Sess., Dec. 21, 1970. He may also be authorized to declare a recess at any time during the remainder of the session. 105 CONG. REC. 19128, 86th Cong. 1st Sess., Sept. 11, 1959; 107 CONG. REC. 19800, 87th Cong. 1st Sess., Sept. 16, 1961.

§ 2.2 *Note:* Ordinarily, adjournments to a day certain for more than three days are provided for by concurrent resolution (Ch. 37 § 3, infra), whereas adjournments of three days or less may be agreed to by simple resolution or by unanimous consent. See 121 CONG. REC. 2641, 2642, 94th Cong. 1st Sess., Feb, 6, 1975. In one instance, pursuant to authority conferred upon him by resolution, the Speaker declared a recess to permit the Members to attend swearing-in ceremonies for the Vice President. 120 CONG. REC. 41604, 93d Cong. 2d Sess., Dec. 19, 1974 [H. Res. 1520, which, *inter alia,* authorized the Speaker to declare recesses for the remainder of the session].

§ 3. Purpose of Recess

§ 3.1 Where the Speaker is given authority to declare recesses, and the specific purpose of such recesses is not made a part of the request, the authority may be exercised at the Speaker's discretion. 110 CONG. REC. 7304, 88th Cong. 2d Sess., Apr. 8, 1964.

§ 3.2 By unanimous consent, the Speaker may be authorized to declare the House in recess to await the receipt of a message from the President (115 CONG. REC. 1188-92, 91st Cong. 1st Sess., Jan. 17, 1969), to await a message from the Senate (115 CONG. REC. 3268, 91st Cong. 1st Sess., Feb. 7, 1969; 124 CONG. REC. 7942, 95th Cong. 2d Sess., Mar. 22, 1978), to await a report from a standing committee on certain emergency legislation and a report from the Committee on Rules relating thereto (116 CONG. REC. 5867 et seq., 91st Cong. 2d Sess., Mar. 4, 1970), or to await a conference report. 116 CONG. REC. 40794, 91st Cong. 2d Sess., Dec. 9, 1970; 117 CONG. REC. 46884-88, 92d Cong. 1st Sess., Dec. 14, 1971. See also 108 CONG. REC. 23400, 87th Cong. 2d Sess., Oct. 12, 1962, where the House stood in recess, waiting for certain conference committees to report, for a period in excess of seven hours. On another occasion, the House by unanimous consent recessed to a time certain three times during the same legislative day in order to await Senate action on a House joint resolution continuing appropriations for several departments of the government which were without funds. 123 CONG. REC. 37066, 95th Cong. 1st Sess., Nov. 4, 1977.

§ 3.3 By unanimous consent, the Speaker may be authorized to declare a recess in connection with a joint session to receive the President or a joint meeting to receive certain dignitaries. 117 CONG. REC. 30845, 92d Cong. 1st Sess., Sept. 8, 1971.

§ 3.4 Pursuant to authority previously granted, the Speaker may declare a recess, subject to the call of the Chair, to receive former Members of the House in the Chamber. 117 CONG. REC. 5137-41, 92d Cong. 1st Sess., Mar. 4, 1971; 121 CONG. REC. 13738, 94th Cong. 1st Sess., May 12, 1975; 124 CONG. REC. 14660, 95th Cong. 2d Sess., May 19, 1978. The Speaker has also been authorized to declare a recess to commemorate the 200th anniversary of the meeting and accomplishments of the First Continental Congress (120 CONG. REC. 32023, 93d Cong. 2d Sess., Sept. 23, 1974) or for ceremonies in the Chamber to commemorate Flag Day. 124 CONG. REC. 16963, 95th Cong. 2d Sess., June 9, 1978.

§ 3.5 *Note:* Where a Member was suddenly taken ill on the floor, the House, pursuant to a motion from the floor and by unanimous consent, stood in recess while medical attention was administered and the stricken Member assisted from the floor. 115 CONG. REC. 18614, 91st Cong. 1st Sess., July 8, 1969.

§ 3.6 The Speaker has declared a recess in order to make preparations for a secret session of the House pursuant to Rule XXIX. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., June 20, 1979.

Chapter 37

Adjournment

§ 1. In General; Constitutional and Statutory Requirements

§ 2. Sine Die Adjournment

§ 3. Adjournments for More Than Three Days

§ 4. Privileged Status of Resolutions Providing for Adjournment

§ 5. Motions to Adjourn

§ 6. Quorum Requirements; Adjournment as Related to the Call

§ 7. Debate on Matters Relating to Adjournment

§ 8. Authorization to Act During Adjournment

§ 1. In General; Constitutional and Statutory Requirements

§ 1.1 Under the Constitution, neither House can adjourn for more than three days without the consent of the other. U.S. Const. art. I § 5. For this reason, adjournments of more than three days are provided for by concurrent resolution. See §§ 2, 3, infra.

§ 1.2 The Legislative Reorganization Act of 1970 (2 USC § 198) provides that unless otherwise provided by Congress, the two Houses shall either (a) adjourn *sine die* by July 31 of each year, or (b) in odd-numbered years, adjourn from the first Friday in August which occurs at least 30 days before Labor Day until the second day after Labor Day pursuant to a concurrent resolution adopted by roll call vote in each House.

§ 1.3 By unanimous consent, the House considered and agreed to a concurrent resolution providing that notwithstanding the requirement of the Legislative Reorganization Act of 1970 (2 USC § 198) that the two Houses adjourn *sine die* by July 31, the House and Senate shall not adjourn for more than three days or *sine die* until they have adopted a concurrent resolution to that effect. 118 CONG. REC. 25145, 92d Cong. 2d Sess., July 25, 1972 [H. Con. Res. 648]; 120 CONG. REC. 25008, 93d Cong. 2d Sess., July 24, 1974 [H. Con. Res. 568].

§ 1.4 A concurrent resolution providing for an August adjournment of the two Houses in an odd-numbered year pursuant to 2 USC § 198 is called up as privileged and requires a yea and nay vote for adoption, pursuant to the Legislative Reorganization Act of 1970. 123 CONG. REC. p. ....., 95th Cong. 1st Sess., July 29, 1977 [H. Con. Res. 317]. See also 117 CONG. REC. 28332, 92d Cong. 1st Sess., July 30, 1971 [H. Con. Res. 384]. The same procedure is followed where the resolution provides for an adjournment until the second day after Labor Day "or until notified to reassemble pursuant to a joint agreement of the majority or minority leadership of the two Houses." 119 CONG. REC. 26657, 26658, 93d Cong. 1st Sess., July 30, 1973 [S. Con. Res. 42]; 121 CONG. REC. 25220, 94th Cong. 1st Sess., July 28, 1975 [S. Con. Res. 54]. In one instance, the Senate passed by voice vote a concurrent resolution providing for an August adjournment and then, by unanimous consent, reconsidered that action and adopted the concurrent resolution by roll call vote in compliance with statute. 121 CONG. REC. 24028, 24109, 94th Cong. 1st Sess., July 22, 1975 [S. Con. Res. 54].

§ 1.5 The Speaker declined to entertain a unanimous-consent request that the House adjourn by a time certain on subsequent legislative days of the month. 121 CONG. REC. 22732, 22733, 94th Cong. 1st Sess., July 15, 1975.

§ 1.6 An adjournment resolution, although not divisible, is amendable if the previous question is voted down. 122 CONG. REC. 21702, 94th Cong. 2d Sess., June 30, 1976 [H. Con. Res. 669].

§ 1.7 Section 310(f) of the Congressional Budget Act of 1974 prohibits the consideration of a resolution providing for an adjournment *sine die* before completion of the second concurrent resolution on the budget; and the prohibition even applies to a resolution which makes such an adjournment conditional on prior completion of the second budget resolution. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980. *Note:* An appeal from the Speaker's ruling that consideration of the concurrent resolution was prohibited by § 310(f) was laid on the table, thus sustaining the Chair.

§ 2. Sine Die Adjournment

§ 2.1 Adjournment *sine die* is provided for by concurrent resolution. 105 CONG. REC. 19746,

19749, 86th Cong. 1st Sess., Sept. 15 [Legislative Day, Sept. 14], 1959; 107 CONG. REC. 21528, 87th Cong. 1st Sess., Sept. 27 [Legislative Day, Sept. 25], 1961 [S. Con. Res. 55]; 109 CONG. REC. 25555, 88th Cong. 1st Sess., Dec. 24, 1963 [H. Con. Res. 248].

§ 2.2 The House and Senate may agree to a concurrent resolution providing for the *sine die* adjournment of both Houses on a particular day. 122 CONG. REC. 35336, 94th Cong. 2d Sess., Oct. 1, 1976 [S. Con. Res. 211]. Such a resolution may be amended to provide for adjournment on a day following that specified. 111 CONG. REC. 28406, 89th Cong. 1st Sess., Oct. 22, 1965 [H. Con. Res. 527]. In this instance, where it became apparent that the two Houses could not complete their legislative business by midnight on the day set for adjournment *sine die* in a House concurrent resolution, the Senate amended the resolution to provide for adjournment on the following day. See also 105 CONG. REC. 19746, 19749, 86th Cong. 1st Sess., Sept. 15 [Legislative Day, Sept. 14], 1959, where a House concurrent resolution providing for adjournment *sine die* was amended by the Senate to provide for adjournment on a day later than that proposed in the resolution. *Note:* In the 94th Congress, after an adjournment resolution had been agreed to by both Houses, and it appeared that both Houses would be in session beyong midnight of the adjournment day of Oct. 1, the clocks in the House and Senate Chambers were ordered stopped just prior to midnight. The Record and Journal show the House adjourning *sine die* on the legislative day of Oct. 1, at 11:55 p.m., and 1:37 a.m. on the calendar day of Oct. 2, 1976. 122 CONG. REC. 33536, 94th Cong. 2d Sess., Oct. 1, 1976 [S. Con. Res. 211].

§ 2.3 By resolution the House authorizes the Speaker to appoint a committee to notify the President of the completion of business and the intention of the two Houses to adjourn *sine die* unless the President has some further communication to make. 106 CONG. REC. 19121, 19128, 86th Cong. 2d Sess., Sept. 1 [Legislative Day, Aug. 31], 1960; 112 CONG. REC. 28881, 89th Cong. 2d Sess., Oct. 22, 1966; 117 CONG. REC. 47668, 47676, 92d Cong. 1st Sess., Dec. 17, 1971; 118 CONG. REC. 37051, 92d Cong. 2d Sess., Oct. 18, 1972. This committee is usually composed of the Majority and Minority Leaders of the House. 120 CONG. REC. 41855, 93d Cong. 2d Sess., Dec. 20, 1974. The committee reports back to the House formally, from the well, after it has notified the President of the impending adjournment. 107 CONG. REC. 21518, 21528, 87th Cong. 1st Sess., Sept. 27 [Legislative Day, Sept. 25], 1961; 111 CONG. REC. 28563, 89th Cong. 1st Sess., Oct. 22, 1965; 118 CONG. REC. 37065, 92d Cong. 2d Sess., Oct. 18, 1972.

§ 2.4 Occasionally, the concurrent resolution providing for *sine die* adjournment has included other related matters, such as an authorization to the Secretary of the Senate and the Clerk of the House to receive messages, including veto messages, from the President during the adjournment period. 123 CONG. REC. 38948, 95th Cong. 1st Sess., Dec. 15, 1977 [H. Con. Res. 442].

§ 2.5 In one instance, the House rejected a concurrent resolution providing for the *sine die* adjournment of the two Houses or for adjournment until reconvened by the joint House-Senate leadership. 119 CONG. REC. 43294, 43295, 93d Cong. 1st Sess., Dec. 22 [Legislative Day, Dec. 21], 1973 [H. Con. Res. 411]. (The House and Senate agreed to a concurrent resolution in the same form later on the same calendar day. See H. Con. Res. 412, 93d Cong. 1st Sess., Dec. 22, 1973.) See also 120 CONG. REC. 41815, 93d Cong 2d Sess., Dec. 20, 1974 [H. Con. Res. 697].

§ 2.6 In the 95th Congress, the Senate agreed to a House concurrent resolution providing that when the two Houses adjourn on October 15, 1978, they stand adjourned *sine die.* 124

CONG. REC. 38642, 95th Cong. 2d Sess., Oct. 14, 1978 [H. Con. Res. 760]. On October 15, the House adjourned *sine die* in the absence of a quorum pending a motion to suspend the rules, after having been in continuous session for more than 30 hours. 124 CONG. REC. 38771, 95th Cong. 2d Sess., Oct. 15, 1978.

§ 2.7 As the first session of the 96th Congress drew to a close, the House, by unanimous consent, agreed to convene every third day for the remainder of the session, including a final pro forma meeting immediately prior to the constitutional expiration of the session at noon on January 3, 1980. At the same time, the House by unanimous consent considered a concurrent resolution (1) providing for adjournment of the Senate *sine die* on any of eight designated days following completion of specified business; (2) providing that neither the House nor the Senate shall conduct organizational or legislative business when reconvening for the second session on January 3, 1980, until January 22, or until convened by the leadership; and (3) providing for adjournments to dates certain in the second session until January 22. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Dec. 20, 1979 [H. Con. Res. 232]. *Note:* The concurrent resolution was not privileged because of inclusion of the prohibition against the conduct of business.

§ 2.8 Pursuant to section 2 of the 20th amendment to the U.S. Constitution, a regular session of a Congress must begin at noon on January 3 of every year unless Congress sets a different date by law, and if the House is already in session at that time the Speaker declares the House adjourned *sine die* without a motion being made from the floor, so that the next regular session of that Congress, or the next Congress (as the case may be), may assemble at noon on that day. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Jan. 3, 1980.

§ 3. Adjournments for More Than Three Days

§ 3.1 Since neither House can adjourn for more than three days without the consent of the other (U.S. Const. art. I § 5), adjournments for more than three days are provided for by concurrent resolution. 110 CONG. REC. 20813, 88th Cong. 2d Sess., Aug. 21, 1964; 114 CONG. REC. 9621, 90th Cong. 2d Sess., Apr. 10, 1968. Neither House can adjourn for such periods without the concurrence of the other. Thus, the House cannot adjourn pursuant to a concurrent resolution providing for a six-day adjournment until it receives a message from the Senate informing the House that the Senate concurs in the resolution. See 115 CONG. REC. 33345 et seq., 91st Cong. 1st Sess., Nov. 6, 1969. House agreement to a Senate concurrent resolution authorizing the Senate to "recess" for a period in excess of three days is required—as under Article I § 5 of the Constitution a Senate "recess" is an adjournment requiring the consent of the House. 122 CONG. REC. 28860, 94th Cong. 2d Sess., Sept. 1, 1976 [S. Con. Res. 136]. *Note:* The resolution in this instance provided for a "recess" of the Senate so that upon reconvening the Senate could resume pending business without reverting to routine business and calendars following adjournments as required under Senate rules. See also 123 CONG. REC. 3796, 95th Cong. 1st Sess., Feb. 7, 1977 [H. Con. Res. 196] and 123 CONG. REC. 10258, 95th Cong. 1st Sess., Apr. 4, 1977 [H. Con. Res. 186], for the use of similar resolutions for the same reason.

§ 3.2 Sometimes the adjournment resolution provides for different periods of adjournment for the two Houses. 118 CONG. REC. 3455, 92d Cong. 2d Sess., Feb. 9, 1972 [S. Con. Res. 61, providing for an adjournment for the House from Feb. 9 to Feb. 16, and of the Senate from Feb. 9 to Feb. 14]. A Senate concurrent resolution providing for an adjournment may be amended by the House to provide for adjourn-

ment of the House to a different time. 115 CONG. REC. 35539, 91st Cong. 1st Sess., Nov. 24, 1969 [S. Con. Res. 48]. See 106 CONG. REC. 15828, 86th Cong. 2d Sess., July 5, 1960, where the Senate resolution was amended in the House to provide that the House should reconvene a week later than the Senate. Sometimes the resolution has provided for a period of adjournment of the House and a different period of "recess" for the Senate. Thus the House may agree to a concurrent resolution providing for an adjournment of the House for more than three days to a day certain, and a recess of the Senate for more than three days to one of two days certain as subsequently determined by the Senate before recessing. 124 CONG. REC. 7942, 95th Cong. 2d Sess., Mar. 22, 1978 [H. Con. Res. 544, providing for an Easter recess]. In 1978, the Senate amended a similar House concurrent resolution by providing that when the Senate had completed its disposition of a designated bill, it stand in recess until the date specified. 124 CONG. REC. 19466, 95th Cong. 2d Sess., June 29, 1978 [H. Con. Res. 654]. And in one instance, the House resolution was amended to provide that when the Senate recessed on one of four designated days pursuant to a motion made in accordance with the resolution, it stand in recess for more than three days to a day certain. 124 CONG. REC. 26794, 95th Cong. 2d Sess., Aug. 17, 1978 [H. Con. Res. 696, providing for an adjournment of the House from Aug. 17 to Sept. 6, 1978, and of the Senate from Aug. 25, 26, 28, or 29 to Sept. 6, 1978].

§ 3.3 A concurrent resolution providing for an adjournment to a day certain was offered, and then temporarily withdrawn. 115 CONG. REC. 33255, 91st Cong. 1st Sess. Nov. 6, 1969 [H. Con. Res. 441], providing for an adjournment over the Veterans' Day holiday on Nov. 11. See also 121 CONG. REC. 33695, 94th Cong. 1st Sess., Oct. 22, 1975, where a similar resolution was offered and then withdrawn prior to any action thereon.

§ 3.4 The House agreed to a privileged concurrent resolution providing for an adjournment of the House to a day certain (for the August recess) or until earlier reconvened by the leadership. 120 CONG. REC. 29362, 29363, 93d Cong. 2d Sess., Aug. 20, 1974 [H. Con. Res. 610, providing for adjournment of the House from Aug. 22 to Sept. 11, 1974]. In the 93d Congress, the House amended a Senate concurrent resolution to provide for a House adjournment from July 3 to July 9, 1974, or until earlier reconvened by the joint leadership. 120 CONG. REC. 21632, 93d Cong. 2d Sess., June 27, 1974 [S. Con. Res. 96]. Again, in the 94th Congress, the House amended a Senate concurrent resolution to provide for its own adjournment to a day certain or until reconvened by the leadership. 122 CONG. REC. 2622, 2623, 94th Cong. 2d Sess., Feb. 5, 1976 [S. Con. Res. 92, providing for adjournment of the Senate from Feb. 6-16, and of the House from Feb. 11-16, 1976].

§ 3.5 *Note:* Formal adjournments for more than three days are provided for by concurrent resolution. However, by unanimous consent, the House has agreed to adjourn from Thursday to Monday, from that Monday to Thursday, and from that Thursday to Monday. 121 CONG. REC. 2641, 2642, 94th Cong. 1st Sess., Feb. 6, 1975; 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 28, 1979.

§ 3.6 The House agreed to a privileged concurrent resolution providing that when the Senate adjourn on the first Friday or the first Saturday in August, it stand adjourned pursuant to the provisions of a previous concurrent resolution adopted by the House and Senate providing for an adjournment of the two Houses from the first Friday in August until September 7. 123 CONG. REC. 27247, 95th Cong. 1st Sess., Aug. 5, 1977 [H. Con. Res. 330, adjournment of the Senate for an August recess pursuant to the provisions of H. Con. Res. 317]. *Note:* The subsequent resolution was initiated by the House at the request of the

Senate leadership to give the Senate the option of adjourning on Friday or Saturday.

§ 3.7 Although a (Senate) concurrent resolution providing for an adjournment of more than three days to a day certain of the House and the Senate is not subject to amendment if the previous question is ordered thereon, a motion to commit to a committee with instructions to report back forthwith with an amendment may be offered after the previous question is ordered (clause 1 Rule XVII). 126 CONG. REC. p. ....., 96th Cong. 2d Sess., Oct. 1, 1980 [S. Con. Res. 126].

§ 4. Privileged Status of Resolutions Providing for Adjournment

§ 4.1 A concurrent resolution may be offered from the floor as privileged where it provides for an adjournment of the House to a day certain (117 CONG. REC. 42207, 92d Cong. 1st Sess., Nov. 19, 1971 [H. Con. Res. 466]; 118 CONG. REC. 18545, 92d Cong. 2d Sess., May 23, 1972 [H. Con. Res. 619]; 119 CONG. REC. 32371, 93d Cong. 1st Sess., Oct. 2, 1973 [H. Con. Res. 321]), or to such earlier day as the House is reassembled by the leadership. 116 CONG. REC. 24978, 91st Cong. 2d Sess., July 20, 1970 [H. Con. Res. 689]. See also 120 CONG. REC. 10567, 93d Cong. 2d Sess., Apr. 10, 1974 [H. Con. Res. 475]. A concurrent resolution providing for an adjournment of both Houses to a day certain is likewise called up as privileged (115 CONG. REC. 23107, 91st Cong. 1st Sess., Aug. 11, 1969 [H. Con. Res. 315]; 116 CONG. REC. 35867, 91st Cong. 2d Sess., Oct. 8, 1970 [H. Con. Res. 774]; 117 CONG. REC. 36492, 92d Cong. 1st Sess., Oct. 18, 1971 [H. Con. Res. 429]), as is a concurrent resolution providing for an adjournment of the two Houses *sine die*. 116 CONG. REC. 44308, 91st Cong. 2d Sess., Dec. 31, 1970 [H. Con. Res. 799]; 117 CONG. REC. 47676, 92d Cong. 1st Sess., Dec. 17, 1971 [H. Con. Res. 498]; 118 CONG. REC. 37061, 92d Cong. 2d Sess., Oct. 18, 1972 [S. Con. Res. 726]. And a Senate concurrent resolution providing for an adjournment of the Senate (or of both Houses) to a day certain is laid before the House as privileged. 118 CONG. REC. 23740, 92d Cong. 2d Sess., June 30, 1972; 118 CONG. REC. 29136, 92d Cong. 2d Sess., Aug. 18, 1972 [S. Con. Res. 94]; 120 CONG. REC. 6550, 93d Cong. 2d Sess., Mar. 13, 1974 [S. Con. Res. 75]; 120 CONG. REC. 21632, 93d Cong. 2d Sess., June 27, 1974 [S. Con. Res. 96].

§ 4.2 A House concurrent resolution providing for an adjournment of the House to a day certain, with Senate amendments, may be laid before the House as privileged by the Speaker. 119 CONG. REC. 16804, 93d Cong. 1st Sess., May 23, 1973 [H. Con. Res. 221]; 120 CONG. REC. 30078, 93d Cong. 2d Sess., Aug. 22, 1974 [H. Con. Res. 610]; 124 CONG. REC. 2908, 95th Cong. 2d Sess., Feb. 9, 1978 [H. Con. Res. 473]. The resolution is privileged even though the Senate amendment provides for an adjournment of the two Houses to different days certain. 119 CONG. REC. 3908, 93d Cong. 1st Sess., Feb. 8, 1973 [H. Con. Res. 105]; 120 CONG. REC. 10775, 93d Cong. 2d Sess., Apr. 11, 1974 [H. Con. Res. 475]; 120 CONG. REC. 16150, 16151, 93d Cong. 2d Sess., May 22, 1974 [H. Con. Res. 501]. *Note:* Under another procedure, used prior to the 92d Congress, the Majority Leader offered a motion to take the concurrent resolution from the Speaker's table, with the Senate amendment, and to concur in the Senate amendment. Such motions have been offered from the floor as privileged. 119 CONG. REC. 36976, 36977, 93d Cong. 1st Sess., Nov. 14, 1973 [H. Con. Res. 378].

§ 4.3 A Senate amendment to a concurrent resolution that provides for adjournment *sine die* is privileged and may be called up for immediate consideration in the House. 111 CONG. REC. 28653, 89th Cong. 1st Sess., Oct. 22, 1965 [H. Con. Res. 527]; 119 CONG. REC.

43327, 93d Cong. 1st Sess., Dec. 22, 1973 [H. Con. Res. 412].

§ 5. Motions to Adjourn

§ 5.1 Under Rule XVI clause 4, a motion to adjourn has the highest privilege in the House. 117 CONG. REC. 28332, 92d Cong. 1st Sess., July 30, 1971. However, a motion to adjourn, while privileged, cannot be entertained while another Member holds the floor (111 CONG. REC. 23618, 89th Cong. 1st Sess., Sept. 13, 1965; 112 CONG. REC. 27726, 89th Cong. 2d Sess., Oct. 19, 1966; 114 CONG. REC. 16225, 90th Cong. 2d Sess., June 6, 1968; and is not in order when offered during time yielded for a parliamentary inquiry. 110 CONG. REC. 12522, 88th Cong. 2d Sess., June 3, 1964.

§ 5.2 The 93d Congress amended Rule XVI clause 4 to make a motion for adjournment [not in excess of three days] of the House to a day and time certain of equal privilege to the motion to adjourn if the Speaker, in his discretion, recognizes for that motion. 119 CONG. REC. 17-27, 93d Cong. 1st Sess., Jan. 3, 1973 [H. Res. 6]. The motion that when the House adjourn it stand adjourned to a day and time certain is privileged under the rule. 120 CONG. REC. 33374, 93d Cong. 2d Sess., Oct. 1, 1974. However, the motion is only in order if offered on the legislative day on which the adjournment is to commence. 122 CONG. REC. 32104, 94th Cong. 2d Sess., Sept. 23, 1976. For this reason, when in the 95th Congress the House considered on Monday a resolution providing for the attendance of Members on Thursday, Jan. 20, 1977, at the inaugural ceremonies, and for an adjournment following the ceremonies until Monday, Jan. 24, 1977, it did so by unanimous consent. 123 CONG. REC. 1314, 95th Cong. 1st Sess., Jan. 17, 1977 [H. Res. 113].

§ 5.3 The motion to adjourn is privileged and takes precedence of a motion to suspend the rules. 117 CONG. REC. 38536, 92d Cong. 1st Sess., Nov. 1, 1971. And it is in order pending a motion to reconsider. 125 CONG. REC. p. ....., 96th Cong. 1st Sess., Sept. 20, 1979 [H.J. Res. 399]. Other questions of privilege (such as the consideration of an impeachment proceeding) are not entertained pending a vote on a motion to adjourn. 116 CONG. REC. 11940, 91st Cong. 2d Sess., Apr. 15, 1970. The motion is in order even before the Journal is read. 109 CONG. REC. 23751, 88th Cong. 1st Sess., Dec. 7, 1963. The motion to adjourn, while privileged in the House, is not in order in the Committee of the Whole. 107 CONG. REC. 9619, 87th Cong. 1st Sess., June 6, 1961; 110 CONG. REC. 2505, 88th Cong. 2d Sess., Feb. 7, 1964.

5.4 The yeas and nays may be ordered on a motion to adjourn. 106 CONG. REC. 11828, 86th Cong. 2d Sess., June 3, 1960; 110 CONG. REC. 2616, 2639, 88th Cong. 2d Sess., Feb. 8, 1964. The adoption of a concurrent resolution providing for adjournment *sine die* on a day certain does not preclude a demand for the yeas and nays on the motion to adjourn on that day. 107 CONG. REC. 21528, 87th Cong. 1st Sess., Sept. 27 [Legislative Day, Sept. 25], 1961.

§ 5.5 While the motion to adjourn has the highest privilege in the House under the rule, it may not be repeated in the absence of intervening business. 121 CONG. REC. 26243, 94th Cong. 1st Sess., July 31, 1975.

§ 5.6 A motion to adjourn may be withdrawn by the mover thereof, and unanimous consent for that action is not required. But by withdrawing his motion, the Member loses the floor, and the Speaker may then recognize another Member to renew the motion. 115 CONG. REC. 30054-56, 91st Cong. 1st Sess., Oct. 14, 1969.

§ 5.7 To a simple motion to adjourn, an amendment in the nature of a substitute in the form of a concurrent resolution providing for the *sine die* adjournment of a session of Con-

gress is not germane. 116 CONG. REC. 44190, 91st Cong. 2d Sess., Dec. 30, 1970.

§ 5.8 The motion to adjourn is highly privileged, and may be offered after the House rejects a motion to lay on the table a motion to instruct conferees and before the vote occurs on the motion to instruct. 126 CONG. REC. p. ....., 96th Cong. 2d Sess., May 29, 1980 [H. Con. Res. 307].

§ 6. Quorum Requirements; Adjournment as Related to the Call

§ 6.1 The simple motion to adjourn is in order in the absence of a quorum. 118 CONG. REC. 8303-08, 92d Cong. 2d Sess., Mar. 14, 1972. But a quorum is required for a motion to adjourn to a day and time certain. 109 CONG. REC. 10674, 88th Cong. 1st Sess., June 11, 1963; 115 CONG. REC. 30054-56, 91st Cong. 1st Sess., Oct. 14, 1969; 121 CONG. REC. 19789, 19790, 94th Cong. 1st Sess., June 19, 1975; and 122 CONG. REC. 19755, 94th Cong. 2d Sess., June 22, 1976.

§ 6.2 The motion to adjourn takes precedence of a motion for a call of the House. Thus, where a point of order is made that a quorum is not present and a call of the House is then moved, a Member may immediately move to adjourn, and the Chair may recognize for the higher privileged motion. 109 CONG. REC. 10739, 88th Cong. 1st Sess., June 12, 1963. However, after a call of the House has been ordered, a motion to adjourn is not entertained. 109 CONG. REC. 10151-65, 88th Cong. 1st Sess., June 4, 1963. While a motion to adjourn is in order pending a point of order that a quorum is not present, it is not entertained after the Clerk has commenced to call the roll after a call of the House is ordered and a Member has responded to his name. 106 CONG. REC. 11828, 86th Cong. 2d Sess., June 3, 1960. After the call has been completed, the motion to adjourn is again in order, and it is not necessary that the Chair announce that a quorum has failed to respond before entertaining the motion. 115 CONG. REC. 30054-56, 91st Cong. 1st Sess., Oct. 14, 1969.

§ 6.3 A quorum is required for the adoption of a concurrent resolution providing for a *sine die* adjournment of the two Houses. 118 CONG. REC. 37061, 92d Cong. 2d Sess., Oct. 18, 1972 [H. Con. Res. 726]. However, the resolution having been adopted, the House may adjourn *sine die* on the specified date in the absence of a quorum. And in one instance, the House adjourned *sine die* in the absence of a quorum without taking action on a conference report pending when the point of no quorum was raised. 118 CONG. REC. 37133, 37135, 37141, 92d Cong. 2d Sess., Oct. 18, 1972 [conf. rept. on S. 3939].

§ 6.4 One motion to adjourn having been offered and rejected at the expiration of 15 minutes during a call of the House by electronic device, another motion to adjourn is in order and takes precedence of a motion directing the Sergeant at Arms to arrest absentees. 119 CONG. REC. 18397-403, 93d Cong. 1st Sess., June 6, 1973.

§ 6.5 Where less than a quorum of the House rejects a motion to adjourn and the vote is objected to for that reason, the Speaker may not entertain unanimous-consent requests until a quorum is established. 119 CONG. REC. 43321, 43322, 93d Cong. 1st Sess., Dec. 22, 1973.

§ 6.6 Lack of a quorum having been established on a call of the House (following the expiration of a recess to await Senate action on amendments remaining in disagreement to an appropriation bill), the House adjourned to a day certain, pursuant to a concurrent resolution previously adopted, without receiving a message from the Senate and without completing action on the bill. 121 CONG. REC. 15943-45, 94th Cong. 1st Sess., May 22, 1975.

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§ 7. Debate on Matters Relating to Adjournment

§ 7.1 Concurrent resolutions providing for adjournment of Congress to a day certain are not debatable (113 CONG. REC. 24201, 90th Cong. 1st Sess., Aug. 28, 1967 [H. Con. Res. 497]), and the same rule applies to debate on concurrent resolutions providing for adjournment *sine die.* 114 CONG. REC. 31312, 90th Cong. 2d Sess., Oct. 14, 1968 [S. Con. Res. 83]; 120 CONG. REC. 41815, 93d Cong. 2d Sess., Dec. 20, 1974 [H. Con. Res. 697]. However, the Chair may entertain a parliamentary inquiry pending the adoption of the resolution (124 CONG. REC. 19390, 95th Cong. 2d Sess., June 28, 1978 [H. Con. Res. 654]), and debate is sometimes permitted by unanimous consent. 115 CONG. REC. 33260, 91st Cong. 1st Sess., Nov. 6, 1969 [H. Con. Res. 441]; 124 CONG. REC. 26437, 95th Cong. 2d Sess., Aug. 16, 1978 [H. Con. Res. 696]. A Member may also be permitted to proceed by unanimous consent under the one-minute rule. 118 CONG. REC. 18545, 92d Cong. 2d Sess., May 23, 1972 [H. Con. Res. 619]; 120 CONG. REC. 41815, 93d Cong. 2d Sess., Dec. 20, 1974 [H. Con. Res. 697]; 122 CONG. REC. 21702, 94th Cong. 2d Sess., June 30, 1976 [H. Con. Res. 669]. Debate has been permitted where no point of order was raised and the legislative situation warranted some discussion of the motion. 114 CONG. REC. 31312, 90th Cong. 2d Sess., Oct. 14, 1968 [S. Con. Res. 83]. On one occasion time was yielded by unanimous consent to a Member for a brief statement. 115 CONG. REC. 24201, 90th Cong. 1st Sess., Aug. 28, 1967. And if a Member reserves the right to object to a unanimous-consent request to dispense with the reading, debate on the resolution under the reservation may be permitted. See 120 CONG. REC. 16105, 16106, 93d Cong. 2d Sess., May 22, 1974 [H. Con. Res. 501].

§ 7.2 The Majority Leader, during a one-minute speech, announced his intention to offer a privileged concurrent resolution of adjournment, which was not debatable and on which he would immediately move the previous question to prevent amendment thereto. 121 CONG. REC. 20812, 94th Cong. 1st Sess., June 25, 1975 [H. Con. Res. 324].

§ 8. Authorization to Act During Adjournment

§ 8.1 The Speaker is authorized by House rule to sign enrolled bills during periods of adjournment. Rule I clause 4. Prior to the adoption of this rule, the Speaker was authorized to perform this function by unanimous consent (117 CONG. REC. 47676, 92d Cong. 1st Sess., Dec. 17, 1971; 120 CONG. REC. 41822, 93d Cong. 2d Sess., Dec. 20, 1974), or pursuant to a concurrent resolution authorizing the Presiding Officers of both Houses to sign enrollments during an adjournment. 105 CONG. REC. 19365, 86th Cong. 1st Sess., Sept. 12, 1959; 106 CONG. REC. 19132, 86th Cong. 2d Sess., Sept. 1, 1960.

§ 8.2 By unanimous consent, the Speaker may be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law, notwithstanding adjournment *sine die.* 117 CONG. REC. 47676, 92d Cong. 1st Sess. Dec. 17, 1971; 118 CONG. REC. 37062, 92d Cong. 2d Sess., Oct. 18, 1972; 119 CONG. REC. 43292, 43293, 93d Cong. 1st Sess., Dec. 21, 1973. The same practice is followed during adjournments to a day certain. 117 CONG. REC. 29379, 92d Cong. 1st Sess., Aug. 4, 1971; 118 CONG. REC. 29136, 92d Cong. 2d Sess., Aug. 18, 1972.

§ 8.3 It has been the practice of the Speaker to inform the House when he has, pursuant to authority granted, signed certain enrolled bills during adjournment. 105 CONG. REC. 14992, 86th Cong. 1st Sess., Aug. 3, 1959. This function has been performed by a Speaker pro tempore. See 121 CONG. REC. 9183, 94th Cong.

1st Sess., Apr. 7, 1975, where an elected Speaker pro tempore announced to the House that he had, pursuant to authority granted by the House, signed enrolled bills during an adjournment to a day certain. In one instance, the Speaker pro tempore announced that the Speaker had, pursuant to authority granted, signed an enrolled joint resolution during an adjournment of the House to a day certain. 117 CONG. REC. 35769, 92d Cong. 1st Sess., Oct. 12, 1971.

§ 8.4 The Speaker lays before the House communications from the Clerk advising that pursuant to authority granted, he has, during adjournment, received from the Senate certain messages. 105 CONG. REC. 12474, 86th Cong. 1st Sess., July 1, 1959; 117 CONG. REC. 30845, 92d Cong. 1st Sess., Sept. 8, 1971.

§ 8.5 The Speaker informs the House at its next meeting when he has, pursuant to authority granted, made certain appointments during an adjournment period. 106 CONG. REC. 7, 86th Cong. 2d Sess., Jan. 6, 1960. The House is also informed when the Speaker, during a period of adjournment, has received the resignation of a Member from the House. 106 CONG. REC. 16535, 86th Cong. 2d Sess., Aug. 16, 1960.

§ 8.6 A committee may be authorized, by unanimous consent, to file reports (and to include therewith any minority or individual views) after the *sine die* adjournment. 106 CONG. REC. 18208, 86th Cong. 2d Sess., Aug. 29, 1960. The same procedure may also be used to authorize the printing during adjournment of investigative reports filed with the Clerk by committees authorized to conduct investigations. 106 CONG. REC. 19132, 86th Cong. 2d Sess., Sept. 1 [Legislative Day Aug. 31], 1960; 107 CONG. REC. 21529, 87th Cong. 1st Sess., Sept. 27 [Legislative Day Sept. 25], 1961; 109 CONG. REC. 25555, 88th Cong. 1st Sess., Dec. 24, 1963. Such authorization may permit the printing of such reports as reports of the expiring Congress. 122 CONG. REC. 35337, 94th Cong. 2d Sess., Oct. 1, 1976.

§ 8.7 The Clerk of the House is authorized by House rule to received messages from the President and from the Senate during periods of adjournment. Rule III clause 5. Formerly, this authority was given to the Clerk by concurrent resolution. 121 CONG. REC. 8947, 94th Cong. 1st Sess., Mar. 26, 1975 [S. Con. Res. 27]; 121 CONG. REC. 15882, 94th Cong. 1st Sess., May 22, 1975 [S. Con. Res. 42]; 121 CONG. REC. 41973, 94th Cong. 1st Sess., Dec. 19, 1975 [H. Con. Res. 518]. Adjournment resolutions which also authorized the receipt of veto messages from the President during the adjournment were held not subject to a demand for a division of the question. 122 CONG. REC. 21702, 94th Cong. 2d Sess., June 30, 1976 [H. Con. Res. 669]. In one instance, the House agreed to a unanimous-consent request that consideration of any veto message received by the Clerk during an adjournment be postponed until the day after the day the House reconvened. 124 CONG. REC. 26802, 95th Cong. 2d Sess., Aug. 17, 1978.

§ 8.8 Where the President elected to return a vetoed bill to the House, rather than "pocket veto" the bill, following *sine die* adjournment of the first session, the Clerk, pursuant to authority conferred upon him in the adjournment resolution to receive veto messages, transmitted the message to the Speaker who laid the bill before the House when the second session convened. 122 CONG. REC. 145, 94th Cong. 2d Sess., Jan. 19, 1976 [H.R. 5900].

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